

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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SECURITIES AND EXCHANGE COMMISSION,

PLAINTIFF,

-against-

Index No.:

22-cv-2317-DAMIAN/D'Angelo

ARBITRADE LTD., CRYPTOBONTIX INC., TROY R.J.
HOGG, JAMES L. GOLDBERG, STEPHEN L.
BRAVERMAN and MAX W. BARBER,

DEFENDANTS.

-----X

DATE: March 12, 2025

TIME: 1:00 P.M.

EXPERT DEPOSITION of FAISAL AHMED,
held via videoconference, before Rivka Trop,
a Notary Public of the State of New York.

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A P P E A R A N C E S:

SECURITIES AND EXCHANGE COMMISSION
Attorneys for the Plaintiff
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1950
Miami, Florida 33131
BY: ALICE SUM, ESQ.
ALEXANDER CHARAP, ESQ.

DAWN M. RAPOPORT, ESQ.
Attorneys for the Defendant
JAMES L. GOLDBERG
1314 East Las Olas Blvd #121
Fort Lauderdale, Florida 33301
BY: DAWN M. RAPOPORT, ESQ.

SCHLAM STONE & DOLAN LLP
Attorneys for the Defendant
Troy R.J. Hogg
26 Broadway
New York, New York 10004
BY: TOM KISSANE, ESQ.
ANNA PARK, ESQ.

ALSO PRESENT:
TROY HOGG
STEVEN BRAVERMAN, pro se Defendant
MAX W. BARBER, pro se Defendant
JAMES GOLDBERG

* * *

1 F. AHMED

2 F A I S A L A H M E D, called as a
3 witness, having been first duly sworn by a
4 Notary Public of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. KISSANE:

8 Q. Please state your name for the
9 record.

10 A. Faisal Ahmed.

11 Q. Where do you reside?

12 A. Dubai. Villa 1, Street 9, Springs
13 One, Dubai.

14 Q. Good day, Mr. Ahmed. My name is
15 Tom Kissane. I'm an attorney for Troy Hogg,
16 one of the co-defendants in this case.

17 I'm going to be asking you some
18 questions today for purposes of creating a
19 written record of your testimony. Because
20 that's our purpose, I'm going to ask that
21 you let me finish each of my questions even
22 if you know what it is going to be before
23 you undertake to answer it, okay?

24 A. Yes.

25 MS. SUM: Tom, I'm sorry. I had

1 F. AHMED

2 wanted to get on the record before. Do
3 you want me to go ahead and do that?

4 MR. KISSANE: Go ahead.

5 MS. SUM: Thank you. My apologies
6 for interrupting.

7 I wanted to confirm with all of
8 the four defendants that they will be
9 paying for Mr. Ahmed's time to appear
10 for a deposition. Please confirm on
11 the record.

12 MR. KISSANE: Confirmed as to the
13 time taken for our questioning,
14 confirmed.

15 MR. BRAVERMAN: Confirmed for the
16 time that I take, yes, thank you.
17 Steve Braverman.

18 MR. BARBER: This is Max Barber.
19 Confirmed for the time that I take in
20 questioning.

21 MS. RAPOPORT: This is Dawn
22 Rapoport on behalf of Jamie Goldberg
23 and we confirm as well.

24 I also wanted to quickly make an
25 objection and reservation based on the

1 F. AHMED

2 SEC's late production last night of the
3 authorities that Mr. Ahmed is relying
4 on and reserve for questioning later,
5 if necessary.

6 MR. KISSANE: On behalf of Troy
7 Hogg, we join in that objection.

8 MS. SUM: On behalf of the SEC,
9 those are the materials that were
10 referenced. They are not new materials
11 with respect to his expert report.

12 MR. BARBER: On behalf of Max
13 Barber, pro se, join and also reserve
14 the right to additional questioning
15 that might arise from this deposition
16 today.

17 MR. BRAVERMAN: This is Steve
18 Braverman. I reserve my rights as
19 well. Thank you.

20 Q. Okay. Returning to where we left
21 off about the back and forth between us,
22 Mr. Ahmed, for the same reason I ask that
23 you let me finish my questions before you
24 answer, I also ask that you be sure to give
25 your answers verbally, rather than by

1 F. AHMED

2 gesture so that we have a complete record
3 that the court reporter can take down, okay?

4 A. Yes.

5 Q. Are you represented by counsel for
6 purposes of today's deposition?

7 A. Yes.

8 Q. And who is representing you?

9 A. So I'm representing myself as the
10 expert and I have Alice Sum here from the
11 SEC.

12 Q. And it's your understanding that
13 she is your counsel, your attorney for
14 purposes of today's session?

15 A. Yes.

16 MS. SUM: Tom, I need to clarify
17 that. The SEC has hired him as a
18 witness. We are not personal counsel
19 to Mr. Ahmed or to his firm.

20 MR. KISSANE: Just so we have a
21 clear record, are you representing him
22 for purposes of today's session
23 generally or in some limited sense or
24 not at all?

25 MS. SUM: Generally speaking, we

1 F. AHMED

2 don't represent as lawyers for any
3 expert. He's appearing as the SEC's
4 expert. I'm entitled to comment as
5 needed, if there's an objection, that
6 will certainly be preserved. But it is
7 not an attorney/client relationship in
8 the traditional sense. He's the
9 expert. He doesn't have independent
10 counsel here today.

11 MR. KISSANE: So you're preserving
12 your right to make objections, but if I
13 understand your representation
14 correctly, you're not representing him
15 as his counsel for today's purposes?

16 MS. SUM: That is correct.

17 MR. KISSANE: Okay, very good.

18 Q. Do you understand that, Mr. Ahmed?

19 A. Yes, I do understand, yes.

20 Q. Have you ever sat for a deposition
21 before, given sworn testimony before a court
22 reporter, whether in person or remotely like
23 today?

24 A. No.

25 MR. KISSANE: I'm going to ask to

1 F. AHMED

2 display a document that we're going to
3 mark as Exhibit 1 for purposes of
4 today's deposition. It's a copy of
5 your expert report dated March 5, 2024.

6 (Whereupon, an expert report was
7 marked Ahmed Exhibit 1 for
8 identification as of this date.)

9 Q. And we can scroll through this as
10 necessary. I'll represent to you that it's
11 a 25-page document beginning with the page
12 you see. And with the final two pages
13 consisting, I guess, the final three pages
14 consisting of something called attachment B,
15 documents reviewed and relied upon.

16 I'd ask if you would instruct us
17 how much of this we ought to show you to get
18 you comfortable answering the question of
19 whether you recognize this as your report?

20 A. Yes, this is my report. I
21 recognize this. This is mine.

22 Q. Now, in your report, and I'm going
23 to make references to it, if you'd like me
24 to turn you to the portion that I'm
25 referring to, we can easily do that. But in

1 F. AHMED

2 some cases it may not be necessary. So let
3 me know if you want to do that.

4 I'm referring now to your report,
5 where you say that you had not testified as
6 an expert at trial in the past five years.
7 Have you testified as an expert in any other
8 capacity in the past five years, in other
9 words, apart from a trial?

10 A. No.

11 Q. And have you testified as an
12 expert at trial at any point, including
13 beyond the past five years?

14 A. No.

15 Q. Is it fair then to say that you
16 have never testified as an expert before
17 today?

18 A. Yes, I have not testified.

19 Q. And apart from testimony, have you
20 served as an expert in any litigation apart
21 from the one that we're here on today?

22 A. So in my experience when I was
23 working with PricewaterhouseCoopers and
24 KPMG, I was part of the forensic advisory
25 services and we were providing litigation

1 F. AHMED

2 support. So I have assisted the experts on
3 similar matters producing expert reports.
4 Personally I have not testified as an
5 expert.

6 Q. Apart from testimony, you
7 mentioned preparing reports. Apart from
8 assisting the preparation of reports, have
9 you issued a report in your own name in
10 connection with any litigation?

11 A. No.

12 Q. By your own name, I mean, whether
13 individually or as part of a corporate
14 affiliation, but you are the expert, were
15 you identified as the expert in any report?

16 A. No.

17 Q. And your report here also states
18 that you authored articles in the past ten
19 years; right?

20 A. Yes.

21 Q. And how many articles have you
22 authored in the last ten years?

23 A. So there are a number of articles
24 which have been published in, in the gold
25 sector, primarily gold sector, in the recent

1 F. AHMED

2 past, in the last four years. There are a
3 number of articles that I have written about
4 the challenges in the precious metal sector.

5 In the past I have written
6 articles on anti-crisis corruption once I
7 was with PricewaterhouseCoopers in London.
8 I have written articles on off-shoring
9 techniques. So there are articles that I
10 have written over the last ten years. Off
11 the top of my head I don't remember how
12 many, but there are a number of articles in
13 the recent past.

14 Q. And you mentioned the articles
15 that you published. Was that a publication
16 you named that they've appeared in? Can I
17 ask you to clarify so that I understand
18 correctly? Did you say gold sector?

19 A. Yes. So there are articles that I
20 have written in a magazine which is New
21 Journals. There are articles that I've
22 written in Gulf News newspaper, there are
23 articles which was produced like a white
24 paper that I've written. So these are the
25 type of articles that I've written.

1 F. AHMED

2 Q. Could you list for me all of the
3 publications in which you've published an
4 article in the past ten years, all the ones
5 you can recall?

6 A. So Gulf News which is the
7 newspaper, there are articles that I've
8 written, new Journals magazine where my
9 article has been published. These are the
10 two on the top of my head which I remember
11 where there are more than one articles in
12 New Journals that I've written.

13 Q. Is there more than one in Gulf
14 also?

15 A. Yes, there was -- there's articles
16 on Gulf News also, yes.

17 Q. Can you identify for me, to the
18 best of your recollection, the subject and
19 date of each of the articles that you
20 published in Gulf News?

21 A. I don't remember the date. The
22 subject has been on corporate tax which
23 included the accounting standards
24 requirement in the UE. Especially after
25 2018 there has been a massive requirement in

1 F. AHMED

2 terms of the documentation. So I've written
3 articles around that.

4 In New Journals it has been around
5 the gold sector, the requirements, the
6 Anti-Money Laundering Law which has been
7 enforced in the UE -- the Anti-Money
8 Laundering, AML, and counter-financing of
9 terrorism. So I've written articles on that
10 subject, what the Ministry of Economy in the
11 UE has been doing in the last five or six
12 years, especially in the precious metal
13 sector.

14 Q. And are you able to give any
15 reasonable estimate of the number of
16 articles you published in New Journal
17 magazine?

18 A. New Journals, I believe there are
19 at least three before, but three is what I
20 can remember.

21 Q. And what was the most recent?

22 A. It would be less than six months
23 old.

24 Q. And the questioning to this point
25 has been limited to the past ten years.

1 F. AHMED

2 Have you written articles that were
3 published more than ten years ago?

4 A. Not articles, but I was -- I was
5 project managing the global economic Price
6 survey, which is a survey which was
7 published in 2009 and 2011 by
8 PricewaterhouseCoopers. I was globally
9 managing it. The content of that report was
10 written by me where we captured -- in 2009
11 the key theme was on the back of the
12 downturn, the global economic Price survey
13 on the back of the economic downturn. In
14 2011 we focused on the cybercrime, the team.
15 It was a survey so I've written the report.

16 Around in 2010 there was the U.K.
17 Anti-Bribery Corruption Act of 2010 which
18 came into effect. And I did -- I wrote a
19 white paper on responding to the Bribery Act
20 with respect to Emerging Markets, so which
21 included collaboration between the U.K.
22 president, U.K. China. So that's a white
23 paper which was issued under
24 PricewaterhouseCooper, but I authored these
25 reports.

1 F. AHMED

2 Q. When you say you authored these
3 reports, they were issued by
4 PricewaterhouseCooper, were you identified
5 as the author on the report that was
6 published?

7 A. Yes. The report is published,
8 yes, it is available. It should be
9 available online. And I'm named as a
10 project manager of that. And I completed
11 all the data, I documented the summaries, so
12 I wrote the report, of course. It went
13 under the name of PricewaterhouseCooper's
14 report, not my personal report.

15 Q. But you were the author in each of
16 these instances; is that correct?

17 A. Yes.

18 Q. We can put down your report for
19 the moment.

20 MR. KISSANE: I'm going to ask if
21 we can pull up what I'm going to have
22 marked as Exhibit 2 for today's
23 session. It's a copy of the Arbitrade
24 bylaws dated June 26 of 2018.

25 (Whereupon, Arbitrade bylaws dated

1 F. AHMED

2 June 26, 2018 were marked Ahmed Exhibit
3 2 for identification as of this date.)

4 Q. I will start with a question. Did
5 you review the Arbitrade Bylaws in preparing
6 your expert report?

7 A. The bylaws of Arbitrade, if I can
8 see the document. Because I have in my file
9 the list of documents. Can I see what
10 exactly --

11 Q. Yes. So we can scroll through it
12 as much as you would like. Obviously if I
13 ask you about portions, we'll direct you to
14 those.

15 A. Yes.

16 Q. But my first question is whether
17 you reviewed the Arbitrade Bylaws in
18 preparing your report? That's not
19 necessarily specific to this document,
20 although this is the Arbitrade Bylaws, but
21 before we get into the document specific
22 questions, do you recall if you reviewed any
23 iteration of the bylaws of Arbitrade in
24 connection with the preparation of your
25 report?

1 F. AHMED

2 A. I just read the first page. I'm
3 not able to recollect. But if you can
4 scroll down and show me the document, the
5 bylaws.

6 MS. SUM: Tom, do you have a Bates
7 label for this?

8 MR. KISSANE: I don't. I see it's
9 not at hand.

10 I'm going to ask that we go off
11 the record for a second.

12 (Whereupon, an off-the-record
13 discussion was held.)

14 MS. SUM: I'm going to put the
15 SEC's objection on the record that
16 Exhibit 2 does not bear a Bates stamp
17 number. I've requested that
18 Mr. Kissane provide it. The basis for
19 the objection is we just want to know
20 who the producing party is of Exhibit
21 2. Thank you.

22 MR. KISSANE: Very good.

23 Q. So my question is, I guess you're
24 looking at the document, feel free to
25 continue to do so, my initial question is

1 F. AHMED

2 whether you recall whether or not you
3 reviewed any version of the Arbitrade Bylaws
4 in preparing your expert report?

5 A. No, I don't recall, you know,
6 reviewing this document.

7 Q. This document or any version of
8 the bylaws?

9 A. Not any version of the bylaws.

10 Q. So I'm going to ask that we
11 turn -- this document doesn't have page
12 numbers, but it has paragraph numbers, so
13 I'm going to ask that we turn to paragraph
14 51, and I direct your attention to that
15 portion that reads, "Powers of the Board of
16 Directors," and then 51.1 says, "The Board
17 shall determine the general policy of the
18 company including the scope of its
19 activities and operations and is also
20 responsible for ensuring that management of
21 the company conduct, the day-to-day
22 operations and management of the company and
23 its subsidiaries (where relevant) in
24 accordance with the policy and strategic
25 direction given by the board."

1 F. AHMED

2 Then I'm going to ask if we can
3 turn to paragraph 56, and I direct your
4 attention to 56.1 under Duties of Officers.
5 It says, "The officers shall have such
6 powers and perform such duties in the
7 management, business and affairs of the
8 company as may be delegated to them by the
9 board from time to time."

10 Now, my question is, at the time
11 you prepared your report, were you aware
12 that the management of the company was
13 reserved to the officers and directors by
14 the bylaws?

15 MS. SUM: Objection to the extent
16 that it requires the witness to reach a
17 legal conclusion based on the language
18 from Exhibit 2.

19 MR. KISSANE: I'll rephrase the
20 question.

21 Q. At the time that you prepared your
22 expert report, did you have any view,
23 regardless of what that view might have
24 been, as to whether the management of
25 Arbitrade was reserved to its directors and

1 F. AHMED

2 officers?

3 MS. SUM: Still same objection,
4 requiring an understanding of what
5 legal requirements there were with
6 respect to the company and its board
7 and the other employees.

8 Q. All right, you can answer the
9 question, unless -- well, actually you can
10 answer the question?

11 A. No. As mentioned, that's a legal
12 opinion. It's outside the limit of my
13 expert report.

14 Q. So you had no view either way as
15 to whether the management of the company was
16 reserved to the directors and officers at
17 the time you drafted your report?

18 MS. SUM: Same objection.
19 Requires legal conclusion.

20 MR. KISSANE: Asking him whether
21 he had a view doesn't require a legal
22 conclusion. It's a factual matter. He
23 either had a view or he didn't.

24 MS. SUM: I'll allow him to answer
25 whether he had a view.

1 F. AHMED

2 Faisal, just so you know, counsel
3 may assert objections. So unless I
4 instruct you not to answer, you do have
5 to answer questions being posed by
6 Mr. Kissane.

7 A. Sure. What I've gone through is
8 the complaint for injunction of relief and
9 of jury trial and the previous documents
10 listed in my exhibits and based on that, and
11 then there are a number of emails, so which,
12 you know, in my view there had been control
13 over the management in the specific area
14 where I had provided my expert report where
15 there were directions given by the
16 individuals, the management members.

17 I cannot comment on the -- I
18 cannot comment on the legal aspect based on
19 these bylaws. But what I can see is there
20 were emails which were shared with me, there
21 were certain directions specific to the
22 expert report that I prepared. I have gone
23 through those emails and the complaint.

24 Q. At the time you prepared your
25 report, did you have any understanding as to

1 F. AHMED

2 whether Mr. Hogg was a director or officer
3 of Arbitrade at the relevant times?

4 A. Yes.

5 Q. What was your understanding in
6 that regard?

7 A. That he was the senior management
8 team members. It's mentioned in the
9 complaint.

10 Q. Well, let me focus on that then.
11 What was the basis of your understanding
12 that Mr. Hogg was the director of Arbitrade?

13 MS. SUM: Objection. I don't
14 think that was your question or you're
15 talking about other positions, so.

16 MR. KISSANE: I asked director or
17 officer. I'm going to pursue them
18 separately.

19 Q. So let's start with director. Was
20 it your understanding that Mr. Hogg was a
21 director of Arbitrade?

22 A. Just can you clarify your
23 question. You said director and officer,
24 what do you mean by the two?

25 Q. I'll restate it and let's just

1 F. AHMED

2 start with this question alone.

3 A. Yes.

4 Q. At the time you prepared your
5 report, did you understand or did you have
6 the understanding that Mr. Hogg had been a
7 director of Arbitrade during the period you
8 were considering?

9 A. Yes.

10 Q. And what was the basis of that
11 understanding?

12 A. The documents which is mentioned
13 in my exhibits which I reviewed.

14 Q. Did you see any document that to
15 your understanding stated that Mr. Hogg was
16 a director of Arbitrade?

17 A. As in a legal document confirming
18 his position, no.

19 Q. Whatever it is that you're saying
20 you relied on is what I'm trying to get at.

21 A. So no, in terms of his
22 directorship, there's no document which was
23 provided to me. But from his position as a
24 director, so his official appointment.

25 Q. So what, if anything, did you rely

1 F. AHMED

2 upon in concluding that he was a director?

3 A. To the complaint and the exchange
4 of emails which was shared as exhibits.
5 These are the documents that I have
6 reviewed.

7 Q. Did you see anything in the
8 complaint that said that Mr. Hogg was the
9 director of Arbitrade?

10 A. The exact position, I'd have to go
11 back to the complaint and have a look at it.

12 Q. As we sit here, you don't recall
13 having seen that in the complaint; is that
14 right?

15 A. No. I said I have to go back to
16 his specific position, what was his
17 designation. I'd have to go back and see
18 what was his exact designation in the
19 document, whether a director, officer,
20 managing director. I mean, it could be any
21 position. I need to go back and have a look
22 at it. Or if you have it, you can actually
23 specifically show me where it's coming from,
24 the question.

25 Q. As we sit here, do you recall

1 F. AHMED

2 having seen anything in the complaint
3 stating that Mr. Hogg was a director of
4 Arbitrade?

5 A. I've seen that he was holding a
6 position of, you know, senior management
7 position. What was his designation? I
8 don't recall. I would have to go back and
9 have a look at that.

10 What I can see is that in the
11 defendants and the relief defendant's
12 section of the complaint it is specified
13 that Mr. Hogg was the founder, owner and
14 sole officer and director of Cryptobontix,
15 and I remember a title, as an officer or
16 director of Arbitrade. So that's what is
17 mentioned. In terms of what was his
18 position, in the complaint it says that Hogg
19 was an undisclosed control person of the
20 company and he was assigned to overall
21 control for Arbitrade and was executor or
22 the owner of the company.

23 So as for page 4 of the complaint
24 it defines in the defendants and relief
25 defendant section that "Mr. Hogg is a

1 F. AHMED
2 resident of Ontario, Canada. Hogg is the
3 founder, owner and sole officer and director
4 of Cryptobontix. Although Hogg never had a
5 title as an officer or director of
6 Arbitrade, Hogg was an undisclosed control
7 person of the company. He exercised overall
8 control over Arbitrade and was the
9 60 percent owner of the company."

10 This is what I received.

11 Now, my area of expertise did not
12 require me to actually validate that
13 information with any supporting documents.
14 This is the document that I relied on in
15 terms of his position.

16 Q. Very good. And having reviewed
17 that, does that clarify your understanding
18 that at the time you prepared your report,
19 you knew that Mr. Hogg was not a director of
20 Arbitrade?

21 MS. SUM: Objection. That
22 misstates his testimony.

23 Q. Now, you just read from the
24 complaint saying that Mr. Hogg did not hold
25 a position on the board of Arbitrade.

1 F. AHMED

2 And then you said that a complaint
3 also says he is some sort of undisclosed
4 control person. I'm going to break that
5 down into its component parts.

6 When you prepared your report, you
7 understood that Mr. Hogg was not a director
8 of Arbitrade; right?

9 A. Yes. But there were emails and
10 there are emails between Mr. Hogg and the
11 management. So as I said, in terms of your
12 question was whether I've relied on any
13 document, whether he was a director or not,
14 there was no document which supported his
15 position in that document. I relied on the
16 complaint and the exhibits which were shared
17 with.

18 Q. And the complaint, as we just
19 discussed, says that he was not a director,
20 and we'll talk about the emails in a minute.

21 But let's first talk about the
22 other thing you referred to from the
23 complaint saying that Mr. Hogg was an
24 undisclosed control person.

25 Do you have any understanding as

1 F. AHMED

2 to whether undisclosed control person is a
3 legal term?

4 A. That's a legal question. So, you
5 know.

6 Q. Well, do you have an understanding
7 of what undisclosed control person means,
8 other than as a legal term?

9 A. Which means he has control, he has
10 control over the operations or decision
11 making in that company.

12 Q. Did you form any view in preparing
13 your report as to whether Mr. Hogg was an
14 undisclosed control person of Arbitrade?

15 MS. SUM: Objection. Requires the
16 witness to provide any kind of legal
17 conclusion. And he has already
18 testified that that's not his area of
19 expertise.

20 MR. KISSANE: It only requires him
21 to say whether he had any view as to
22 whether Mr. Hogg was an undisclosed
23 control person other than as a legal
24 term. He may have had such a view or
25 may not. I just want to know which it

1 F. AHMED

2 is.

3 A. Once again, this requires legal
4 expertise. I did not -- my expert report,
5 the scope of work was not to provide legal
6 opinion. So I would reserve my rights on
7 providing a view on this.

8 Q. Can you tell me, what, if
9 anything, you saw in emails that caused you
10 to believe, if you did, that Mr. Hogg was a
11 director of Arbitrade?

12 A. There were email exchanges, there
13 were email which was forwarded. I didn't
14 see any emails which said he was a director
15 of Arbitrade.

16 Q. And did you see anything in the
17 emails or otherwise concerning the question
18 of whether Mr. Hogg was an officer of
19 Arbitrade?

20 A. No, I didn't see anything.

21 Q. I'm going to ask you the same
22 questions as to Mr. Goldberg. At the time
23 you prepared your report, did you have any
24 understanding as to whether Mr. Goldberg was
25 a director of Arbitrade?

1 F. AHMED

2 A. As I mentioned, again, my scope of
3 work did not require me to actually validate
4 their positions. So whether they were a
5 director or an officer, they were the
6 defendants in the complaint, their role has
7 been already defined in that section,
8 defendants and relief defendant, and that's
9 the information that I had.

10 Q. So your answer as to Mr. Goldberg
11 on the subject of officer and director
12 status would be the same as they were for
13 Mr. Hogg; is that correct?

14 MS. SUM: Objection to form. You
15 can answer, Mr. Ahmed.

16 A. Yes. So it clearly says he
17 exercised significant control over
18 day-to-day affairs of Arbitrade. Now, that
19 is not for me to prove in my expert report.
20 That's a legal point. But the complaint
21 which was shared with me clearly stated that
22 he exercised significant control over the
23 day-to-day affairs. So this question about
24 whether he was a director or an officer is
25 not relevant to my expert testimony.

1 F. AHMED

2 Q. Now, elsewhere in your report, you
3 say, "The SEC has alleged in part that
4 Arbitrade, Cryptobontix, Hogg, Goldberg,
5 Braverman and Barber perpetrated a crypto
6 asset pump and dump scheme."

7 So that refers to a crypto asset.
8 What experience, if any, do you have with
9 crypto currency?

10 A. So in 2021 the first crypto OTC,
11 over-the-counter company was set up in Dubai
12 by the Commodities Center, the SEC. And I
13 wrote the AML policies and procedures for
14 that company. We were awarded by the SEC
15 and the company providing the compliance
16 support. And then we supported the
17 compliance for -- as compliance consultants
18 for this crypto company for a period of time
19 after we prepared the anti-money laundering
20 framework.

21 Q. When you say, "we," who are you
22 referring to?

23 A. Me and my firm. So I lead this
24 firm with a few consultants. And we were
25 hired by the company to actually write the

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2 AML policies. And we worked on the
3 compliance aspect. So we are aware about
4 the crypto companies. It's been our client.

5 Q. And at the time you were
6 approached for that assignment you described
7 in 2021, what experience, if any, did you
8 have with crypto currency up to that point?

9 A. So again, since 2018 and '19,
10 there has been crypto business which is in
11 the UE. So we engaged in a number of
12 meetings with clients of potential people
13 who are mining crypto here. And I have
14 participated in my capacity as an adviser to
15 a number of clients on these discussions.

16 Also the Virtual Asset Regulatory
17 Authority, the VARA regulations, which are
18 coming here. So we do research. So we,
19 when I say we, myself, myself, I lead the
20 firm, we are specializing in AML and we are
21 working in a number of industries. I work
22 in financial institutions on implementing
23 anti-money laundering and counter-financing
24 of terrorism. I work in the designated
25 non-financial businesses and professions,

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2 which include precious metal sector, real
3 estate sector, insurance companies, lawyers
4 and accountants and also in the crypto
5 currency space. So we have a dedicated team
6 which is looking at the crypto assets and
7 trying to get regulations within the crypto
8 industry.

9 Q. Do you regard yourself as an
10 expert concerning crypto currency?

11 A. I regard myself as an expert on
12 anti-money laundering and compliance in the
13 precious metal sector.

14 On the crypto sector, it's still
15 evolving. We are still working. As I said,
16 we were the first crypto OTC company which
17 was set up in the UE. We were hired because
18 of our expertise in this to prepare the AML
19 framework and to act as compliance
20 consultants.

21 Q. To focus on my questions, to fill
22 in what you said or drawing on other
23 resources you may have in mind, do you or do
24 you not regard yourself as an expert
25 concerning crypto currency?

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2 A. When you say, "An expert
3 concerning crypto currency," can you
4 elaborate what you mean by an expert? We
5 are consultants in the crypto currency, in
6 the compliances in crypto currency and we
7 are working with clients on this.

8 When you say, "an expert," what do
9 you mean? I have not testified as an expert
10 for a crypto company.

11 Q. Well, my question is whether you
12 regard yourself as an expert. So I can't
13 tell you what definition you might apply in
14 making that judgment.

15 A. All I can say is we are
16 consultants with compliance expertise
17 catering to the crypto industry.

18 Q. But I believe you said you've
19 never offered testimony as an expert
20 regarding crypto currency; right?

21 A. Yes, I'm sorry, yes.

22 Q. Elsewhere in your report you
23 write, "The SEC has alleged in part that
24 Arbitrade and Cryptobontix through Hogg,
25 Goldberg, Braverman and Barber made material

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2 misrepresentations and omissions to
3 investors while they were offering and
4 selling DIG tokens in a series of news and
5 press releases issued to the public and a
6 press conference. They also participated in
7 a scheme to defraud."

8 The text continues, but I want to
9 focus your attention on that to ask this
10 question. What experience, if any, do you
11 have with the U.S. Securities Laws?

12 A. When you say, "The U.S. Securities
13 Laws," what specific laws on the U.S.
14 securities?

15 Q. Well, let's start with them as a
16 whole and then we can get more specific if
17 and as appropriate.

18 What experience do you have, if
19 any, with the U.S. Securities Laws?

20 A. That's a legal --

21 MS. SUM: Actually, let me go
22 ahead and insert an objection here.
23 This expert has not been retained as an
24 expert in U.S. Securities Laws. So I'm
25 going to object to a line of question

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2 that goes into -- what he does or
3 doesn't know about it is not the
4 subject of this expert report. It's
5 very clearly defined what the scope is
6 and it does not include U.S. Securities
7 Laws.

8 But Mr. Ahmed, you can answer the
9 question, if it doesn't require any
10 legal expertise to answer it.

11 Q. Do you have any experience with
12 the U.S. Securities Laws?

13 A. No. Again, as the expert in the
14 scope of work that I have produced, my
15 expert report, I'm not an expert in U.S.
16 securities. That was not the requirement.

17 Q. In the course of the review you
18 did in connection with your report, did you
19 see any evidence that Mr. Hogg had
20 participated in a crypto asset pump and dump
21 scheme?

22 MS. SUM: Objection, calls for
23 legal conclusion. And the expert was
24 not retained for that purpose as noted
25 in his report.

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2 Q. In drafting your report, was it
3 your intention to reflect a conclusion as to
4 what you had described in here as the SEC's
5 allegation that Mr. Hogg had perpetrated or
6 participated in a crypto asset pump and dump
7 scheme?

8 A. So in my conclusion is mentioned
9 in my expert report it was a specific
10 defined scope of work. I was not required
11 to opine on the legal aspect of their role
12 and responsibilities. I was -- I
13 specifically focused on the scope of work
14 which was provided in my expert report.

15 Q. So it was not your attention in
16 your report to convey an opinion as to
17 whether Mr. Hogg had participated in a
18 crypto asset pump and dump scheme; is that
19 right?

20 A. So as a legal opinion, no, I would
21 not provide a legal opinion.

22 Q. Well, putting aside whether it's
23 characterized as a legal opinion, did you
24 intend for your report to convey an opinion
25 as to whether or not Mr. Hogg had

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2 participated in a crypto asset pump and dump
3 scheme?

4 A. That was not the reason of my
5 report.

6 Q. Do you recall seeing any evidence
7 in the course of preparing your report that
8 you believe supported an argument that
9 Mr. Hogg had participated in a crypto asset
10 pump and dump scheme?

11 MS. SUM: Objection. The witness
12 has testified repeatedly. This is not
13 within the scope of his expert report.
14 It's not providing any legal
15 conclusions as to the section.

16 Tom, it says in this sub part of
17 his report, "The SEC has alleged in
18 part the listing of the allegation."

19 MR. KISSANE: And I'm asking him
20 whether he saw any evidence that in his
21 view supported that allegation that
22 Mr. Hogg had participated in a crypto
23 asset pump and dump scheme.

24 He can answer yes, he can answer
25 no, he can answer that he can't say,

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2 but it's a simple question.

3 A. That's outside the scope of my
4 work. So you see, whether the -- it's a
5 legal point. So I was not required to opine
6 or have my view on whether they participated
7 in the pump and dump scheme. All I mention
8 in my report is that this is what the SEC
9 has alleged with the company.

10 Q. Right, but I'm asking a different
11 question and that is whether in the course
12 of reviewing documents and preparing your
13 report, you saw anything that you regarded
14 as evidence supporting the allegation that
15 Mr. Hogg had participated in a crypto asset
16 pump and dump scheme? Either you did or you
17 didn't.

18 MS. SUM: Same objection, based on
19 the scope of his expert report.

20 A. It's outside the scope of my work.

21 Q. The question has nothing to do
22 with the scope of your work. The question
23 has to do with whether you did or didn't see
24 documents that you believe supported the
25 allegation that Mr. Hogg participated in a

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2 crypto asset pump and dump scheme. If you
3 say you did or didn't, the significance of
4 that answer can be argued elsewhere.

5 But the question of whether it's
6 within the scope of your work is irrelevant
7 to the question. So I'm going to restate
8 it.

9 Did you or did you not in
10 connection with preparing your report see
11 any evidence that you believe supported an
12 allegation that Mr. Hogg participated in a
13 crypto asset pump and dump scheme?

14 MS. SUM: I'm asserting the same
15 objection.

16 Tom, this is like asking him if
17 there's evidence, PC evidence whether
18 the sky is green. This is not part of
19 the scope of his expert report.

20 MR. KISSANE: Well, I think the
21 sky is as green as the allegation is
22 accurate. But I'm not looking to argue
23 the merits of anything, obviously, with
24 you Alice here. I just want to get him
25 to answer the very narrow question.

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2 And you know, you made your
3 objection, and we'll see where it goes.
4 But I still think he owes me an answer
5 as to whether or not in the course of
6 preparing his report he saw evidence
7 that he regarded as supporting the
8 allegation that Mr. Hogg participated
9 in a crypto asset pump and dump scheme.

10 MS. SUM: Same objection.

11 Mr. Ahmed, you can answer the
12 question, if it doesn't require you to
13 reach any kind of legal conclusion.

14 A. Yes. I mean, I'm repeating
15 myself. I've said it previously. I was not
16 required as part of my scope to form an
17 opinion or look at evidences on this
18 allegation. So on the specific allegation
19 which you're talking about, it's beyond the
20 scope of my work.

21 Q. So I'm trying to minimize the
22 redundancy here. I'll rephrase the question
23 this way.

24 Accepting that you have said that
25 it was beyond the scope of your work,

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2 regardless of whether it was within or
3 beyond the scope of your work, did you see
4 any evidence during the preparation of your
5 report that you regarded as supporting the
6 allegation that Mr. Hogg participated in a
7 crypto asset pump and dump scheme?

8 MS. SUM: Objection, to the extent
9 that it calls the witness to provide
10 any kind of legal conclusion regarding
11 the allegation.

12 You can answer it, Mr. Ahmed, if
13 it doesn't require you to reach a legal
14 conclusion.

15 Q. Please answer.

16 A. Yes, you know, again, what I have
17 mentioned in my report is the SEC's
18 complaint, where the SEC has alleged my
19 responsibility or my scope did not require
20 me to investigate into whether these
21 allegations -- what was the evidence around
22 these allegations about pump and dump
23 scheme. So I did not investigate. That was
24 not the scope of work. So if you ask me,
25 you know, you're asking me this question,

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2 what I put down is the SEC's complaint, the
3 alleged complaint. That was not my area of
4 expertise or my agreement or my scope to
5 actually investigate what the complaint SEC
6 is valid and to validate the evidence.

7 Q. Okay. I'm going to ask you the
8 same question and hopefully we can deal with
9 it more briefly. I'll just ask the
10 question.

11 In the course of preparing your
12 report, did you see any evidence that you
13 regarded as establishing that Mr. Hogg had
14 made material misrepresentations to
15 investors?

16 MS. SUM: The same objection to
17 the extent that the witness is required
18 to make a legal conclusion.

19 If you can answer without
20 providing any kind of legal conclusion,
21 you can do so.

22 A. I mean, I can't provide a legal
23 opinion here. I have looked at the
24 complaint, the SEC's complaint and we have
25 taken it from there.

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2 Q. So did you or did you not see any
3 evidence that you regarded as supporting a
4 contention that Mr. Hogg had made material
5 misrepresentations to actual or potential
6 investors?

7 MS. SUM: Objection, calls for a
8 legal conclusion. You can go ahead.

9 A. Just that I kept saying this, that
10 that requires a legal opinion, that's a
11 legal conclusion. It was not my scope. So
12 I can't comment on this.

13 Q. I disagree that it requires a
14 legal conclusion, because the question is
15 simply whether you saw any evidence that you
16 believed supported that contention. I'm not
17 at this point asking you about the ultimate
18 contention.

19 So did you or didn't you see
20 evidence going to that subject?

21 MS. SUM: Same objection regarding
22 the legal conclusion. You're asking a
23 witness who is an expert within the
24 gold industry and AML about what
25 material misrepresentations, et cetera,

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2 are.

3 Mr. Ahmed, if you can answer
4 without touching on any kind of legal
5 conclusion, you may answer.

6 A. It's the same answer. This is
7 beyond my expertise or scope of work.

8 Q. And therefore you formed no
9 conclusion on the subject; right?

10 A. It's a legal opinion. So
11 whether -- to establish the evidence of
12 whether there is material misrepresentation
13 or not is a legal matter which I'm not
14 commenting on the legal matter.

15 Q. So therefore you formed no opinion
16 on the subject in your report; right?

17 A. On the legal matter, you know, on
18 the legal opinion.

19 Q. You described it as a legal
20 opinion. I've described it as the question
21 of whether Mr. Hogg made material
22 misrepresentations.

23 So if you're saying that you
24 didn't form an opinion on that subject, we
25 can move on. But if you're qualifying that

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2 by saying that you didn't make an opinion
3 only as to the legal opinion, then I want to
4 pursue what else you had in mind where you
5 may have formed such an opinion.

6 So let's try to clarify that.

7 A. So let me explain. There are
8 press releases about Arbitrade announcing
9 shipments, Arbitrade announces that they are
10 secure, which is, you know, the U.S. dollar,
11 10 billion in gold backed up by documents.
12 Now it is not my opinion to validate whether
13 it leads to misrepresentation or not. My
14 scope was clear on the process, the
15 standards which were required to be met to
16 validate that this was (unintelligible)
17 gold. So I wouldn't comment on whether
18 those evidences satisfied the complaint or
19 the alleged complaint by SEC. That's a
20 legal matter.

21 Q. In the course of preparing your
22 report, you mentioned press releases. Did
23 you see evidence of Mr. Hogg's participation
24 in the writing or distribution of press
25 releases related to the gold?

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2 A. Which particular press release?

3 If you can refer me to the specific document
4 then I can, you know -- well, I can then
5 answer your question.

6 Q. I don't know that there is any
7 such document. I'm asking whether you do.

8 MS. SUM: Objection.

9 Okay, Tom, you're asking a
10 question, and you're turning it to --
11 you're asking for clarification and now
12 you're taking the rug out from under
13 him. If you want him to testify
14 regarding a specific press release, put
15 it up and ask him whatever question you
16 want.

17 MR. KISSANE: If I wanted him to
18 testify to a specific press release, I
19 would do that. But what I want him to
20 testify to is whether or not he saw any
21 evidence of Mr. Hogg's participation in
22 the writing or distribution of press
23 releases related to the gold. It's a
24 yes or no question, if he knows or he
25 can say that he doesn't know.

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2 MS. SUM: If you know the answer
3 to the question, Mr. Ahmed, you can
4 answer it.

5 A. No, there are several emails. Now
6 if I go back into my file, you know, I look
7 at those emails, I can't even remember --
8 there was a email which was from Troy Hogg
9 to Larry Mere dated June 14, 2018. Again,
10 there is a discussion about the gold, there
11 is discussion about the gold bullion, et
12 cetera. So again, if there is a specific
13 email, there are emails where he's copied or
14 he's sending email. If you want to show me
15 the email, I can tell you what I relied on
16 from that particular email. But you have to
17 show me that particular exhibit.

18 Q. So I understand, you're saying
19 there were emails concerning the gold
20 bullion, but that wasn't my question?

21 A. Yes.

22 Q. My question was whether you were
23 aware of any evidence of Mr. Hogg's
24 participation in the writing or distribution
25 of press releases related to the gold?

1 F. AHMED

2 MS. SUM: Same objection. The
3 scope of the expert's work and his
4 report is not as to the specific line
5 of questioning you're asking. He said
6 very clearly multiple times now what
7 the scope of his expert report is and
8 it's plain in the report in black and
9 white.

10 MR. KISSANE: I don't see how that
11 in any way prevents him from answering
12 the question. It's a yes or no
13 question, and whatever the reasons for
14 either answer might be could be
15 explored elsewhere.

16 Q. I'm simply asking whether as we
17 sit here today, he recalls whether he saw
18 any evidence of Mr. Hogg's participation in
19 the writing or distribution of press
20 releases related to the gold?

21 A. Again, that's a legal point, what
22 was his participation. If you see, my
23 expert report is clearly on the standards
24 which should have been followed. It's not
25 on who was participating in those, in

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2 distribution of the release. I haven't
3 commented anywhere in my report on the
4 distribution of the reports and provided an
5 expert opinion on that.

6 Q. Well, do you remember whether you
7 saw any evidence of Mr. Hogg's participation
8 in the writing or distribution of press
9 releases related to the gold? It's a yes or
10 no question, either you remember or you
11 don't, and either it's one or the other.

12 A. The point is whether, you know,
13 whether his participation is a question for
14 -- it's a legal point. Because it is not
15 for my expert report. So it doesn't matter
16 if I remember or there were emails. There
17 are emails. Whether he participated or he
18 did not participate is for the legal team.
19 It was beyond the scope of my work to --

20 Q. If you're saying that it's beyond
21 the scope of your work and therefore you
22 didn't see such materials, so that's an
23 answer to my question.

24 But whether or not it's within the
25 scope of your work, my question is a very

1 F. AHMED

2 narrow one, and I don't see that it turns on
3 the scope of your work, except to the extent
4 you might wish to refer to that in
5 explaining why you didn't see such evidence.

6 But I'm asking mainly whether you
7 saw evidence going to the subject of
8 Mr. Hogg's participation in the writing or
9 distribution of press releases related to
10 the gold? And I think it's a question that
11 fairly emits a yes or no answer.

12 A. I have seen emails related to the
13 gold which was backing the tokens. I have
14 seen the emails about the gold, particularly
15 the gold which was backing the tokens. But
16 specifically whether he authorized or he
17 sent any email or any instruction for the
18 press release is not something that I was
19 looking for. That was not in my scope to
20 actually validate that whether he
21 participated or did not participate. That
22 is for the legal counsel to validate.

23 Q. With respect to the participation
24 or distribution of writing or distribution
25 of press releases, will your answer be any

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2 different as to Mr. Goldberg than it has
3 been as to Mr. Hogg?

4 A. Same answer.

5 Q. Would your answer be the same for
6 Mr. Goldberg as it has been for Mr. Hogg
7 with respect to the question of material
8 misrepresentation?

9 A. Yes, it will be the same answer.
10 It's a legal thing.

11 Q. The portion of your report refers
12 to a DIG token issued by Arbitrade. Are you
13 familiar with the DIG token? Do you know
14 what that is?

15 A. Yes, the D-I-G?

16 Q. Yes.

17 A. It's mentioned in the complaint,
18 yes.

19 Q. In the course of preparing your
20 report, did you see any evidence concerning
21 the question of whether Mr. Hogg was
22 involved in offering the DIG token to the
23 public?

24 MS. SUM: Objection to the extent
25 that the question calls for a legal

1 F. AHMED

2 conclusion. And this is also outside
3 the scope of Mr. Ahmed's report.

4 Q. You can answer.

5 A. Yes, so it's outside of the scope
6 of my work and it requires legal counsel.
7 It's a legal question.

8 Q. Again, I think we've sort of been
9 over this, but I think we can put aside the
10 scope of your report for a second, because
11 it's a matter of a factual question.

12 Did you or did you not see any
13 evidence in the course of preparing your
14 report concerning the subject of whether
15 Mr. Hogg did or did not offer the DIG token
16 to the public?

17 MS. SUM: Same objection.

18 A. It was outside the scope of my
19 work.

20 Q. My question isn't whether it's
21 inside or outside the scope of your work.
22 My question is whether you saw any such
23 evidence?

24 MS. SUM: Same objection.

25 Q. You can answer.

1 F. AHMED

2 A. Yes, it's the same objection, I
3 would have because it is outside my scope.
4 I was specifically tasked, you know, to look
5 at whether the standards were followed, you
6 know, for the specific verification of gold.
7 Whether they participated or whether they
8 issued the DIG token was beyond my scope.
9 So I wouldn't be looking, I wouldn't be
10 commenting on that.

11 Q. Well, I'm asking you to comment on
12 that, I'm asking you specifically to tell me
13 whether you saw any evidence that Mr. Hogg
14 was offering the DIG token to members of the
15 public?

16 MS. SUM: I'm going to assert the
17 same objection, outside scope, calls
18 for a legal conclusion.

19 What's offering or not, you know
20 that that's within a legal decision.
21 He's not testified as to that. That's
22 not his expertise.

23 MR. KISSANE: He can answer the
24 question of whether or not he saw such
25 material.

1 F. AHMED

2 A. That's not my expertise. So if
3 you look at it, you know, I keep saying I
4 have the complaint and I have the relevant
5 documents which are related to the complaint
6 which I have mentioned in my expert report.
7 So if there's a specific document or part of
8 the report that you want to question me,
9 yes, I'm happy to answer that. But this is
10 a legal point I wouldn't want to comment on,
11 whether there was any evidence or not.

12 Q. If I understand correctly, you are
13 not prepared to answer the question of
14 whether you saw any evidence that concerned
15 the question of whether or not Mr. Hogg had
16 offered the DIG asset or the DIG coin to
17 members of the investing public? You're not
18 going to answer that; is that correct?

19 A. No, I'm not saying I'm not going
20 to answer that. What I'm saying here is
21 that this is not, what you're questioning me
22 is not in the scope of my work or my
23 expertise. It's for the legal counsel. But
24 why would I look at an evidence, why would I
25 look at an evidence? You're asking me

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2 whether I looked at a particular evidence or
3 not, it's not relevant, because it is beyond
4 my scope of work.

5 Q. Those are all questions you're
6 presenting that one might ask, but that's
7 not the question I'm asking right now.

8 The question simply is whether you
9 saw such materials? And I still don't
10 understand if your answer is that you won't
11 answer or that you don't recall seeing any
12 such materials? I just would like to
13 clarify so we can move on.

14 MS. SUM: I'm objecting to any
15 further questions along these lines.
16 Tom, he's tried to answer you as best
17 as he can saying repeatedly it's not
18 within the scope, okay, it calls for a
19 legal conclusion.

20 He's not here as a securities
21 expert or nor was he actually retained
22 as a crypto currency expert, although
23 he apparently has extensive experience
24 with crypto currency. So we're
25 spending a lot of time on this. This

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2 deposition is going to take far longer
3 than five and a half hours if you're
4 going to spend this much time asking
5 questions about information that's
6 outside the scope of his retention.

7 MR. KISSANE: Well, I believe my
8 questions are proper. I can't control
9 the time. I think the witness is
10 answering, is participating in the
11 process and I'm hopeful that we'll be
12 able to move forward.

13 This is really related to the
14 disagreement we had earlier. The
15 questions there came out I think a
16 little clearer than they are here.

17 So I'm going to try to close a
18 loop on it, but I don't think we've
19 gotten there yet, so I have to re-ask.

20 Q. Putting aside whatever the scope
21 of your assignment was, putting aside the
22 question of what is or isn't a legal
23 conclusion, did you in the course of
24 preparing your report see any evidence
25 concerning the question of whether Mr. Hogg

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2 offered the Dignity token to members of the
3 investing public?

4 MS. SUM: Asserting the same
5 objection. Whether there's an offering
6 calls for a legal conclusion.

7 A. It's the same thing. I was not
8 required to investigate this particular
9 aspect.

10 Q. I'm not asking if you were
11 required to investigate it. I'm asking if
12 you saw any evidence going to that subject?

13 A. It was outside the scope of --

14 MS. SUM: Same objection. You're
15 asking whether he saw evidence of an
16 offering, okay. What an offering is is
17 absolutely outside the scope of his
18 expertise, requires knowledge regarding
19 U.S. Securities Law which clearly his
20 expert report does not include any
21 conclusions to that effect.

22 MR. KISSANE: Well, I think it's
23 for the witness to say whether he saw
24 any evidence that he viewed going to
25 the question of whether Mr. Hogg

1 F. AHMED

2 participated in an offering of the DIG
3 token. He could say that he did see,
4 or didn't see, or he didn't recall, or
5 he could say whatever he wants. But
6 you keep going back to the scope of his
7 retention. The question isn't about
8 the scope of his retention. The
9 question is about what he did or didn't
10 see.

11 MS. SUM: Okay. I'm going to
12 again object. You're asking him if he
13 saw evidence of Mr. Hogg making an
14 offering, okay. The issue of whether
15 there was evidence affording offering
16 calls for a legal conclusion. He is
17 not an expert in U.S. Securities Laws
18 as to what qualifies as an offering.
19 So I'm going to again object. To the
20 extent that Mr. Ahmed is able to answer
21 that question without providing any
22 legal expertise or relying or forming
23 an expert opinion on legal matters, he
24 can answer. But if he can't, I will
25 tell Mr. Ahmed, then you're not able to

1 F. AHMED

2 answer.

3 Q. All right. So I'll re-ask the
4 question in this way. In the course of
5 preparing your report, did you see any
6 evidence that you regarded as going to the
7 subject, putting aside whatever effect on
8 that subject it might have, of whether
9 Mr. Hogg had participated in offering the
10 DIG token to members of the investing
11 public?

12 MS. SUM: The exact same objection
13 that I just asserted.

14 Q. And I'd ask that you answer the
15 question?

16 A. Yes. So again, you're asking me
17 to actually state whether I saw any evidence
18 of offering of the DIG tokens to the public.
19 Now, that's, again, beyond my expertise.
20 I'm not an expert in the U.S. securities
21 offering. So I can't comment on that
22 particular aspect. What would form as an
23 evidence, whether it was there or not there,
24 it was outside the scope of my work. If we
25 focus on the areas that I have expertise on

1 F. AHMED

2 and what I have actually opined on, then
3 yes, I would be able to answer that
4 question. But this is beyond my scope.

5 Q. And if my questions in this regard
6 about the offering of the DIG tokens were
7 framed in terms of Mr. Goldberg rather than
8 Mr. Hogg, would your answers be the same?

9 MS. SUM: Same objection.

10 A. Yes, yes.

11 Q. So if we can go back to your
12 report, Exhibit 1, and as we turn to page 7,
13 looking at paragraph 1 you say, "Defendants
14 should have conducted the Customer Due
15 Diligence (CDD)/Know Your Customer (KYC)
16 checks on SION and its owner, verified the
17 physical existence of gold, its weight and
18 purity to determine its worth and obtained
19 information on where it was being vaulted."

20 Do you see that language?

21 A. Yes.

22 Q. Which defendants are you referring
23 to here?

24 A. Arbitrade. Because if you look at
25 Arbitrade, they should have conducted the

1 F. AHMED

2 checks on SION, right, and verified the
3 physical existence of gold, because the
4 agreement was between Arbitrade and SION.

5 Q. Do you agree that what you're
6 describing as the language that I read is
7 not something that Mr. Hogg was responsible
8 for doing?

9 MS. SUM: Objection, form.

10 A. Yes, what was his role and
11 responsibilities within the companies,
12 again, it's beyond my scope. So I'm not
13 validating what he was required to do in the
14 company or not. He is one of the defendants
15 and clearly this should have been done by
16 Arbitrade or the officers, you know, the
17 defendants from Arbitrade who represented
18 Arbitrade.

19 Q. But your statement here that
20 defendants should have, in the language I
21 read --

22 A. Yes.

23 Q. -- when you wrote that and as we
24 sit here today, you were not intending that
25 as an affirmative opinion that Mr. Hogg

1 F. AHMED

2 himself had the obligation to do the things
3 you're describing, isn't that right?

4 MS. SUM: Objection, form.

5 A. He is one of the defendants that
6 he should have -- it's been said that the
7 officers are personally liable to actually
8 do this. So he should have conducted due
9 diligence.

10 Q. So in your opinion in saying, when
11 I asked you about this language, you said
12 the obligation is Arbitrade, so now I'm
13 trying to drill down on that.

14 It sounds like you're saying that
15 Mr. Hogg had that obligation. When you say
16 that you include him among the defendants
17 who have this obligation, what is your basis
18 for determining that he has that
19 responsibility?

20 A. So it's the defendants, all the
21 defendants, they should have conducted the
22 due diligence procedures, right. So it is
23 the defendants. What responsibilities they
24 have is, again, that was not validated in my
25 report, what they were required to do as per

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2 the, you know, the evidence, whether they
3 were the director or the officer, we have
4 answered this question and we're coming back
5 to the same thing. What was his position
6 within the company, to establish that is
7 beyond the scope of my work. What I'm
8 saying is the defendants on this case, as
9 they are defined in the complaint, should
10 have conducted this due diligence.

11 Q. Right. And you phrase it in those
12 terms about the defendants, but my interest
13 is in clarifying which defendants you're
14 talking about, as to this and other
15 assertions.

16 So you have said, if I understand
17 you correctly, that you believe Mr. Hogg is
18 among the defendants who should have
19 conducted the customer due diligence and
20 know your customer checks?

21 A. Yes.

22 Q. And my question to you is what you
23 rely upon in determining that Mr. Hogg had
24 that obligation, because you've made the
25 representation now that you're saying he had

1 F. AHMED

2 the obligation, so I'm asking how you got to
3 that conclusion?

4 A. So it's in the complaint. You see
5 the SEC complaint, the defendants and the
6 relief defendant, it clearly defines the
7 defendants there.

8 Q. Did you rely on anything other
9 than the complaint in coming to that
10 conclusion?

11 A. No, it's the complaint, because it
12 was, again, beyond my scope to actually
13 establish what was their role within the
14 company.

15 Q. And if I asked you these questions
16 about the CDD and the KYC with respect to
17 Mr. Goldberg rather than Mr. Hogg, would
18 your answers be the same?

19 A. Yes.

20 Q. So what do you contend defendants
21 should have done in order to meet the
22 obligation that you've described in the
23 language that we read?

24 A. So the checks that should have
25 been performed, you know, as part of the due

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2 diligence process, when they are entered
3 into the agreement with SION. So looking
4 at, you know, the AML, the anti-money
5 laundering and the counter-financing of
6 terrorism regulations require steps to be
7 followed, you know, the customer due
8 diligence that needs to be established,
9 right. The source of funds, the source of
10 wealth, that needs to be established. The
11 documents, the physical documents that
12 should have been there, you know, the
13 storage documents, the purchase documents,
14 the working documents, the physical
15 existence of gold, that should have been
16 established. This is all part of the due
17 diligence process which clearly should have
18 been conducted.

19 Q. And the opinion that you conveyed
20 in your report when you say defendants had
21 these responsibilities, did you as to each
22 of the obligations you just described, is it
23 your intention to say that all defendants
24 had each of those obligations or did you
25 make any attempt to distinguish among the

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2 defendants or is that simply not part of
3 what you considering?

4 A. No. See, the officers, the people
5 who are responsible, the officers, we call
6 them management, whatever you call them,
7 they are responsible. They are liable to
8 actually ensure that these procedures are
9 followed. So they should have been
10 individually or collectively, I mean, as a
11 group or individually, they should have
12 performed these due diligence procedures
13 when they entered into this agreement.

14 Q. Who, if anyone, apart from the
15 officers have you concluded was responsible
16 for doing that?

17 MS. SUM: Objection to the extent
18 that it calls for a legal conclusion.

19 MR. KISSANE: I'll rephrase it.

20 Q. Who, if anyone, other than the
21 officers are you offering your opinion ought
22 to have taken the steps you just described?

23 MS. SUM: Still calls for a legal
24 conclusion.

25 MR. KISSANE: It goes entirely to

1 F. AHMED

2 his opinion.

3 A. So at the end of the day the
4 defendants who are named here are, you know,
5 are responsible for running the company.
6 They are the ones who were responsible. The
7 senior management is responsible, you know,
8 to get the due diligence conducted and done.
9 Again, who within the company would be
10 tasked to do it is a legal opinion. So who
11 they would delegate or not delegate or do it
12 themselves or have a compliance officer
13 doing it, that's the legal part. But at the
14 end of the day the people who are leading
15 the organization are ultimately responsible.

16 MS. SUM: Tom, let me know when
17 there's a natural break for a bathroom
18 break.

19 MR. KISSANE: Sure, we can take
20 one very shortly.

21 Q. So this brings us back to the
22 subject we covered earlier. I'd like to
23 return to it briefly.

24 I'm asking you who among the
25 defendants you believe had the

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2 responsibilities you've described, and I've
3 heard you say at one point the officers and
4 other point senior management. But you also
5 said that in your opinion, when you say that
6 defendants should have done the CDD, the
7 KYC, does that include Mr. Hogg? So I just
8 want to make sure I have a clear
9 understanding of whether you say that
10 Mr. Hogg is included among the defendants
11 having that obligation, because you have
12 formed an opinion that he was an officer or
13 a director or senior management of
14 Arbitrade, or whether you have not formed an
15 opinion on that subject?

16 A. So once again, that's the legal
17 point. But when I said, it's not just the
18 officer, the senior management or the
19 director, it's people having control. So
20 whoever has control over the operations of
21 that company are actually responsible. So
22 in the complaint, the SEC complaint it is
23 mentioned that he had control over the
24 entity, and that is why he is one of the
25 defendants.

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2 Q. Now, since you've disclaimed any
3 legal opinion, what authority do you rely on
4 in saying that defendants had the
5 obligations you're describing with respect
6 to the CDD or the KYC?

7 A. Can you repeat the question, sir?

8 Q. Yes. I'm trying to clarify,
9 you're saying the defendants have this
10 responsibility, and you seem to be including
11 Mr. Hogg among those defendants, but you've
12 disclaimed giving a legal opinion. So I'm
13 asking, since you are excluding legal
14 authority, on what authority do you rely in
15 concluding that defendants had the
16 obligations that you described here?

17 A. You see, once again whether they
18 were the officers or directors or senior
19 management or had the control is beyond my
20 scope of work. That's the legal element.
21 It's a legal opinion that's established
22 alone.

23 Mr. Hogg is a defendant who had
24 control over the company as per the
25 complaint of the SEC, and they had control

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2 over the entity and their operations,
3 clearly they should have performed the due
4 diligence as I have just mentioned.

5 Q. Just so I understand, are you
6 saying that you put Mr. Hogg among those
7 bearing these responsibilities that we're
8 talking about because you have accepted the
9 SEC's allegation that he was a control
10 person, not that you've made an independent
11 finding that he's responsible for these
12 things, but rather that you come to that
13 conclusion, come to that opinion applying
14 the assumption that he was a control person,
15 is that what you're saying or do you have an
16 independent factual contention that you're
17 opining it on?

18 A. No, he was part of the
19 discussions, you know, on the email
20 exchanges and the discussion on whether
21 auditors and accounting firm, the physical
22 verification of the gold. And why would he
23 participate if he did not have the control
24 or if he was not a decision maker. So it's
25 not just purely based on the SEC's complaint

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2 allegation, but seeing the evidences which
3 were there that he participated in those
4 discussions.

5 Q. So with that I take it you're
6 saying is not a legal conclusion, because
7 you've disclaimed legal conclusions, so you
8 are saying that you included in your opinion
9 as a factual matter that Mr. Hogg was a
10 control person; is that right?

11 A. Again, that's a legal point,
12 whether he was a controller or not a
13 controller, right. The defendant, you know,
14 he was party to whether it was the
15 appointment of an expert or discussions
16 around the accounting firms, why would you
17 actually participate in that? So he
18 participated in that. So when I'm saying,
19 the defendant, the people who are
20 responsible, if they are the officers or the
21 controllers in the company and they had the
22 authority, then they should have actually
23 conducted the right level of due diligence.

24 Q. So I'm coming to the conclusion to
25 form the opinion and I think you have said

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2 you did, that Mr. Hogg was among those
3 having that responsibility, I'd like to
4 clarify whether you had done that by forming
5 an independent opinion that he was a person
6 in control of the company or whether you had
7 done that by applying the assumption that
8 the SEC is correct in saying that?

9 A. See, establishing the fact whether
10 he was in control of the company was beyond
11 the scope of my work. So I wouldn't be
12 validating the information that yes, he
13 was -- he was, you know, controlling the
14 company. But he is one of the defendants in
15 the SEC's complaint, which is said in the
16 complaint that he is, that he has the
17 control over Arbitrade. Arbitrade went into
18 the contract with SION and Arbitrade and its
19 officers or the people who were controlling
20 it should have conducted the due diligence
21 as I mentioned in my report.

22 Q. And if my questions on this
23 subject of the CDD and KYC in the matters
24 we're discussing just now, if I were to ask
25 the same questions with respect to

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2 Mr. Goldberg that I'd asked with respect to
3 Mr. Hogg, would your answers be the same?

4 A. Yes, it would be the same.

5 MR. KISSANE: Alice, this is as
6 good a time as any to take a break.

7 THE WITNESS: Yes, please.

8 MS. SUM: Five minutes?

9 THE WITNESS: Yes.

10 MR. KISSANE: I'd like to take a
11 little more than that. Can we resume
12 at 3:00 New York time?

13 MS. SUM: Yes, very good.

14 MR. KISSANE: Thank you.

15 (Whereupon, a short recess was
16 taken.)

17 Q. I'm going to ask if we can turn to
18 page 4. You may already be on the report.

19 I'm going to ask you to look at
20 the portion of page 4 of your report, which
21 is Exhibit 1, and the second line of page 4
22 I'm going to read a fairly lengthy portion
23 of text. It says, "Specifically, I have
24 been asked to render an opinion on whether
25 the actions of the defendants Arbitrade and

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2 Cryptobontix, Inc. and their principals Troy
3 Hogg, James Goldberg, Stephen Braverman
4 related to Arbitrade purportedly acquiring
5 and receiving title to \$10 billion in gold
6 bullion through a purchase transaction with
7 defendant Max Barber and his company
8 believed Defendant SION Trading, FZE
9 comported with the international standards
10 and code of practices governing the gold
11 sector." And a little further down you say,
12 "I was asked to examine the transaction
13 documents related to the case and
14 provide/explain the necessary processes that
15 must be adhered to while dealing in gold
16 bullion that is widely accepted in the
17 industry and satisfies the legal and
18 regulatory requirements governing the
19 sector."

20 Do you recognize those words as
21 your own?

22 A. Yes.

23 Q. And under the standards and rules
24 identified in your expert report you list
25 several copied and pasted guidelines for the

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2 gold industry and the SEC yesterday produced
3 a series of documents that it described as
4 the authorities on which your report relied.

5 Do any of the materials that you
6 have relied on in forming your opinion as to
7 the subject of the propriety in the manner
8 in which the \$10 billion in gold bullion
9 comported or didn't comport with the
10 standards you're describing, did any of
11 those materials you relied on speak to the
12 obligations of a buyer of gold?

13 A. Yes.

14 Q. Which do?

15 A. So the first thing is about as a
16 process, the due diligence that the buyer
17 should perform on the seller and the asset
18 which they are buying. So buyer has the
19 obligation to look at, you know, the EMN
20 requirement, the customer due diligence
21 requirement, the social part, this is all
22 required. Also the responsibility sourcing
23 guidelines talk about, you know, where it
24 was sourced from, the gold. The accounting
25 and auditing standards talk about physical

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2 verification, the process.

3 I have listed it down in my
4 report.

5 Q. Would you be able to -- and we can
6 direct the screen as you'd like.

7 Can you point me to the portion of
8 your report that discusses the source of
9 obligations for a buyer as opposed to a
10 seller of gold?

11 A. The buyer as opposed to the
12 seller. So I have listed down the, you
13 know, you see on page 10, 11, you know,
14 there are various regulations that have been
15 listed down. The buyer is responsible to
16 conduct the customer due diligence. So as
17 per the AML regulations, they are required
18 to conduct the customer due diligence. And
19 as part of the due diligence there are
20 several steps that needs to be performed.

21 So for example, the buyer, the
22 movement of the gold, the evidence that the
23 gold existed, the commercial invoice or the
24 packing list, the airway bill. You know,
25 there are a number of documents which are

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2 required to be validated by the buyer when
3 they are actually buying gold from a seller.

4 Q. So could you point me specifically
5 to the pages you're describing to which of
6 the referenced standards contain the
7 obligations you're describing on behalf of
8 the buyer?

9 A. So if you go to page 8 of the
10 report, where the standards and rules I have
11 listed down.

12 You can scroll on the screen,
13 please, on page 8 if you see it talks about
14 in the gold industry the various regulations
15 that needs to be complied with. And if you
16 look on page 10 which talks about the
17 responsible gold guidelines, the U.S. KYC,
18 anti-money laundering and combating
19 terrorism financing regulations. And since
20 January 2012, the Good Delivery in the
21 finance have undergone annual audits and the
22 LBMA gold guidelines. It talks about
23 several laws and regulations with the link
24 which are there. And when you go into the
25 regulations there are obligations on the

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2 buyer to actually perform these checks,
3 validations on the due diligence.

4 Q. Okay. So let's take these one at
5 a time, and I'll ask if I'm overlooking any
6 of those sources that you are relying on as
7 to the buyer's obligation, that you let me
8 know that. But we see one thing I see that
9 you're discussing is the UAE Good Delivery?

10 A. Yes.

11 Q. You said to provide the framework
12 for the gold standard?

13 A. Yes.

14 Q. And is that among the sources that
15 your offering an opinion creates obligations
16 or offers guidance to buyers of gold?

17 A. Yes, the UAE Good Delivery and
18 previously the passage used to be call Dubai
19 Good Delivery that had obligations on the
20 buyers. So buyers and sellers, both the
21 obligations are there for both, both
22 parties. The anti-money laundering
23 regulations also require, they have the
24 obligations for buyers and the sellers.

25 Q. So as to the UAE Good Delivery,

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2 how if at all have the obligations on buyers
3 changed since 2018?

4 A. So it hasn't changed. It is --
5 it's evolving. The regulations are becoming
6 more and more stricter, right. But it was
7 there in 2018 as well. So a buyer would --
8 I mean, there are two elements here. One is
9 as a buyer you need to do the due diligence
10 which is if you go back to my report, the
11 page we were there before this, page number
12 7 where I clearly state on page number 7,
13 okay, the defendants here, if you can scroll
14 up on the screen, please, page 7, if you see
15 point number 1 here is the defendants here,
16 the defendants would be the buyers, right.
17 So you're referring to the buyers and SION
18 is the seller in this arrangement. So they
19 should have conducted the customer due
20 diligence.

21 Now this is required by the AML
22 regulations, this is required by the Dubai
23 Good Delivery requirement. So the LBMA
24 requirements or the OECD guidelines and
25 terms of responsible sourcing. So there is

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2 an obligation on the buyer to conduct due
3 diligence on the seller as well as the goods
4 of the seller, so which is where you verify
5 the physical existence of goods, what is the
6 weight, the purity of the gold, what is the
7 value, the market value. And then you
8 validate it with evidences of documents
9 which support all this.

10 So in terms of, as I mentioned,
11 what about the shipment, where did that gold
12 come from, what was the source from where
13 the origin of that particular gold. So all
14 those documents are part of your KYC or your
15 due diligence procedures to be followed by
16 the buyer before they accept and on-board
17 that supplier or that seller.

18 And this is an obligation by the
19 UE AML requirements, right, as well as all
20 the other regulations that I've mentioned.
21 It talks about the onus on the buyer to
22 perform these checks.

23 Q. And who, let me make sure, I'm
24 going to ask, you have done this, I'm going
25 to ask if you would again, to name so I can

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2 write down and the record will clearly
3 reflect each of the authorities that we're
4 talking about right now. I have several
5 names here. I'd just like to make sure I
6 have your listing of the complete roster of
7 the names.

8 A. So I have listed it down in my
9 report but if, you know, broadly you want me
10 to specifically talk about the regulations
11 within this industry, the precious metal
12 industry, number 1 is the AML regulations.
13 Number 2 is the Good Delivery regulations
14 and Good Delivery can be the LBMA, the
15 London Bullion Market Authority. You know,
16 when you're dealing with LBMA refiners or
17 LBMA bars, or it could be Dubai Good
18 Delivery which is now called UAE Good
19 Delivery. And then you have the OECD's
20 guidelines which describes the responsible
21 sourcing of, you know, of precious metals.
22 So these are --

23 Q. I'm sorry to interrupt, but I
24 missed your third statement. Between the
25 Good Delivery and what was the other one you

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2 mentioned?

3 A. OECD guidelines which are there.

4 So if you look at the various
5 regulations which revolve around the sector,
6 I'll repeat myself, the sector has to comply
7 with AML regulations, the anti-money
8 laundering and the counter-financing of
9 terrorism. That applies -- it's the
10 regulation which exists in the U.S., the
11 regulation that exist in the UE which
12 requires due diligence to be performed by
13 the buyer on the seller and the proceeds on
14 the goods which they are buying, the source
15 of wealth, the identity and all the
16 documentation, the transaction documentation
17 to satisfy that this was, you know, how was
18 it all sourced. So that's AML regulations.

19 Number 2, so UE, just on the AML
20 aspect, UE is part of the Financial Action
21 Task Force, the FATF. So to the Financial
22 Action Task Force. So the U.S. entities are
23 regulated by the FATF and so are the UE
24 entities. So you must comply with the
25 anti-money laundering regulations, number 1.

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2 Number two, you have the precious
3 metal specific regulators body or
4 attestations which requires you to follow
5 the due diligence procedures. One of them
6 is the London Bullion Market Association,
7 LBMA, standards. Number 2 is the Dubai Good
8 Delivery which is now called UAE Good
9 Delivery. Number 3 is the OECD Organization
10 for Economic Co-operation and Development,
11 OECD guidelines which are there for precious
12 metals, responsible sourcing of precious
13 metals.

14 So within all these regulations it
15 specifically requires the buyers and the
16 sellers to perform the due diligence
17 procedures.

18 Q. So in part of your opinion that
19 Arbitrade -- well, you say defendants.

20 A. Yes.

21 Q. I'm going to phrase it for our
22 purposes as Arbitrade, as the buyer, part of
23 your opinion is that Arbitrade was obliged
24 to meet certain requirements of the AML
25 regulations; is that right?

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2 A. Yes, that's right.

3 Q. And are you saying that that
4 obligation is one that you understand arose
5 under U.S. law?

6 A. The AML regulations are under U.S.
7 law as well. So UAE, if I talk specifically
8 about the UAE, it is a member of the
9 Financial Action Task Force, the FATF
10 actually the guidelines have to be followed.
11 So under the AML regulations, whether it is
12 UAE AML regulations or the U.S. AML
13 regulations, Arbitrade, the defendants, were
14 required to perform the due diligence on the
15 seller or on the supplier.

16 And the supplier at SION which was
17 domicile in the UAE was obliged to meet with
18 the AML regulations to satisfy the buyer.
19 So they are on boarding the buyer, the buyer
20 is on boarding the seller. So both parties
21 were equally responsible to actually satisfy
22 the requirements of AML and regulations and
23 conduct the due diligence.

24 Q. Now, you are not forming a legal
25 opinion as to legal matters in your report,

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2 right?

3 A. Around the defendants, who were
4 the defendants and what was their role and
5 responsibility, yes, I'm not forming an
6 opinion on what was their role within
7 Arbitrade.

8 Q. But are you forming a legal
9 opinion as to what their obligations were
10 under applicable law?

11 A. As an expert, I am, yes, in terms
12 of within the applicable law, what were the
13 responsibilities of Arbitrade, of the
14 defendants.

15 Q. So can you help me understand
16 which portion of your report identifies the
17 provision of law that obliges Arbitrade to
18 comply by the AML regulations?

19 A. So, you know, I have specifically
20 mentioned the various -- if you look at page
21 8 where I have in the gold industry I've
22 listed down and I've listed down the
23 executive office of Anti-money Laundering
24 and Counter-Financing of Terrorism. So if
25 you see, these are the industry regulations

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2 which are all mentioned on page 8.

3 Q. Right, and which of these
4 constitute the provision that you rely on in
5 concluding that there was a legal obligation
6 for Arbitrade to meet the standards you're
7 discussing?

8 A. So according to the Good Delivery
9 standards as well as according to the
10 anti-money laundering standards. So it's an
11 obligation to actually conduct the due
12 diligence.

13 Q. The Good Delivery regulation
14 you're referring to, is that different than
15 the Good Delivery standards?

16 A. No, it's the same.

17 Q. And that's a UAE thing; right?

18 A. Yes. There is the LBMA. If you
19 have LBMA, if you're dealing with LBMA parts
20 or you have the UAE Good Delivery or the
21 Dubai Good Delivery, yes.

22 Q. Where in your report does it say
23 what provision of law subjects Arbitrade to
24 the standards of the UAE Good Delivery
25 regulation?

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2 A. So Arbitrade would be a
3 counter-party to the transaction which is
4 happening in Dubai, in UE, right. So
5 Arbitrade would follow the anti-money
6 laundering regulations of the FATF. So I've
7 mentioned the executive office of the
8 anti-money laundering and counter-financing
9 of Terrorism. That's not restricted to the
10 UAE alone, it's global, and FATF -- so
11 Arbitrade and SION would both need to comply
12 the AML regulations.

13 Q. Understanding that's your legal
14 conclusion, is there somewhere in this
15 report where you cite the authority for that
16 conclusion or is it your position that
17 conclusion follows from the standards
18 themselves? I just want to understand how
19 you close the loop on that.

20 A. So, if you look at the -- I'm
21 sorry, can you repeat your question once
22 again?

23 Q. Yes. I understand you're saying
24 that you offered the opinion that Arbitrade
25 is obliged to comply with various standards.

1 F. AHMED

2 A. Yes.

3 Q. And I'm just asking if there's a
4 portion of your report that cites the
5 authority that creates that obligation for
6 Arbitrade or whether it's your opinion that
7 the obligation arises from the standards
8 themselves? Is there a way you close the
9 loop to get from the standards to
10 Arbitrade's obligation or are you saying it
11 arises from the standards themselves without
12 need of a further connection?

13 A. Yes. So if you look at, you know,
14 all the list of the defendants where I have
15 provided all the list on the regulations,
16 the documents reviewed and relied upon and
17 I've mentioned the various regulations and
18 the cabinet decisions, right. So, if
19 anybody is dealing with the UE, the whole
20 sector has to comply with these regulations
21 and Arbitrade itself would need to comply
22 with the AML regulations in the U.S. So
23 based on my experience, and my, you know, as
24 an expert, you know, Arbitrade should have
25 conducted the customer due diligence. They

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2 are dealing in a precious metals sector.

3 They were, you know, going to buy the gold

4 and they had an agreement. So they should

5 have conducted the proper customer due

6 diligence.

7 If you want me to list out what

8 the customer due diligence would be or the

9 kinds of documents they should have, I would
10 be glad to state that.

11 MR. KISSANE: I'm sorry, may I ask
12 the reporter to read back the last
13 sentence of that answer.

14 (Whereupon, the record was read by
15 the reporter.)

16 Q. Okay, I will ask you to do that.

17 A. Sorry?

18 Q. I'll take you up on that offer.

19 A. Okay. So if you see, as a buyer

20 the first step is they need to actually

21 conduct a due diligence on the supplier,

22 right, and the products of that supplier.

23 So in this case SION would be the supplier,

24 the product would be gold which was there.

25 So first thing is the identity,

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2 the verification, identification and
3 verification that should have been done, you
4 know. So in terms of all the legal
5 documents of SION, their office, their
6 possession of that gold, the financial
7 statements, validating that the gold existed
8 on their financial -- if they owned the
9 gold, if they had the title to the gold,
10 then whether the physical verification was
11 conducted of that gold, what about the
12 audited report on this.

13 In terms of the source of funds or
14 the wealth to which this gold was procured,
15 it's a mandated requirement of the due
16 diligence, the purchase documents, the
17 storage, the vaulting documents, the
18 insurance, whether it was done by the
19 supplier or whether the vaulting authority
20 or the party which was storing the gold, the
21 insurance policy which was there. What
22 about the movement of that gold, how did it
23 land in Dubai, or wherever the vault was, so
24 how did it come, what about the commercial
25 invoice, the custom document. Because no

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2 gold can come into the UE without having a
3 custom clearance. So the custom documents,
4 the origin documents that it was originating
5 from, so the export bill or typically the
6 airway bill or the exit document from the
7 country from where it was transported into
8 the UE, the packing list which list down all
9 the CD number of that gold, the origin of
10 that gold, the weight, the purity of the
11 gold, the delivery note, you know. There is
12 in and out document, so the metal receipt is
13 what we call it in the industry. So where
14 the gold is handed over from one party to
15 the other party, whether the logistics
16 company to the supplier or from the supplier
17 to the vault. So these documentation is
18 part of the due diligence process to be
19 followed.

20 And again, then comes the fact
21 that once you enter into that agreement, if
22 validation of the physical existence of
23 gold. So prior to entering into a
24 relationship with a supplier of gold, all
25 these documentation, all the due diligence

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2 should have been conducted by the buyer.

3 This is a practice that everybody in the
4 gold industry, they following this. All the
5 transaction documents, these are, you know,
6 these are mandatory documents, whether it's
7 an international buyer or a local buyer here
8 in the UE.

9 So this would then establish the
10 due diligence requirements under the AML
11 regulations or any of the Good Delivery
12 regulations.

13 So again, I can keep on and then
14 go on on listing. But these are the
15 typical, the level of duty. Then the
16 screening that has to be performed for
17 sanctions, the screening for politically
18 exposed person, these are mandated on the
19 AML. Gold sectors falls under the
20 designated non-financial businesses which is
21 regulated by AML regulations.

22 So if Arbitrade was going to be
23 with a gold trading company in the UE, this
24 level of due diligence is required under the
25 AML law to be conducted.

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2 Q. You've expressed the opinion, as I
3 understand it, that not only Arbitrade had
4 those obligations, but other defendants as
5 well, including Mr. Hogg and Mr. Goldberg.

6 We discussed the responsibility of
7 Mr. Hogg and Mr. Goldberg for obligations of
8 Arbitrade earlier today before the break.

9 Apart from what you said then, is
10 there any other basis included in your
11 opinion as to why Mr. Hogg or Mr. Goldberg
12 would have responsibility for performing the
13 obligations you've attributed to them along
14 with Arbitrade as buyer?

15 A. Going to point number 2 on my
16 report is, which is about the appointment of
17 independent accounting firms. And where we
18 see the exchange of communication about
19 appointing independent accounting firms, so
20 what was the purpose of appointing these
21 firms? It was the physical validation. So
22 anybody -- if Arbitrade wanted to validate
23 the existence of the gold, there is a
24 certain level of due diligence or a certain
25 physical verification, or physical existence

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2 of gold that needs to be established by a
3 third party.

4 Q. Okay, I don't mean to interrupt
5 you but that's a little different than where
6 I was going.

7 We'll come to the auditing issue.

8 But my question, my question for
9 now is whether you have any basis for
10 offering the opinion that Mr. Hogg and
11 Mr. Goldberg had responsibility for meeting
12 the standards that you said applied to
13 Arbitrade with respect to the acquisition of
14 the gold, apart from the reasons you gave in
15 your testimony earlier today, when we talked
16 about the question of their responsibility
17 for Arbitrade's obligations in a different
18 context?

19 A. They are the same reasons, same
20 reasons.

21 Q. Moving then to the accounting
22 firms at page 7 of your report in paragraph
23 2, you say, "Defendants hiring of two
24 accounting firms, Elliot Davis and BDO to
25 verify the G4S safekeeping receipt did not

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2 comport with the standards and rules."

3 I take it that here too, you
4 include Mr. Hogg and Mr. Goldberg among the
5 defendants who were obliged to comport with
6 those standards; is that right?

7 A. Yes, as defendants, yes.

8 Q. And apart from what you described
9 earlier, is there any other basis for which
10 you relied in concluding that Mr. Hogg and
11 Mr. Goldberg had that obligation?

12 A. They were in communications. So,
13 I mentioned this earlier as well. So, you
14 know, instructions or participating, yes, so
15 that's in my mindset means the same.

16 Q. Okay. Do you have any opinion as
17 to whether auditing firms had an obligation
18 to disclose a client hiring them to audit
19 gold what the standard practices are?

20 A. If the auditing firm has an
21 obligation to disclose, what?

22 Q. Yes, the standards of practice
23 that you're describing that you say
24 defendant failed to meet with respect to the
25 auditing, do you have an opinion as to

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2 whether the auditing firm has an obligation
3 to disclose those standards and practices to
4 the client who retains them?

5 A. Yes. Well, you know, the client
6 has the right to ask them what standards
7 they're referring to in the report. So if
8 you see the report in the approach that the
9 auditing accounting firm, you know, uses for
10 the approach, they mention that what
11 standards or what obligations they are
12 referring to.

13 Q. Do you understand that the
14 accounting firms involved here disclose the
15 standards to Arbitrade?

16 A. So here it was a limited -- it was
17 agreed upon procedure. So if you look at
18 the report from the auditing firm, so
19 whether the report from BDO, it is clearly
20 mentioned it's an agreed upon procedure. So
21 I'm asking them to, as a client, what the
22 client has done, I've asked them to do what
23 they want to do as an agreed upon procedure.

24 So if you look at it, they were
25 asked only to verify the SKR which is a

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2 piece of paper that yes the SKR existed,
3 that's what they have confirmed in the
4 report. They are not confirming the
5 physical existence of gold.

6 MR. KISSANE: I'm going to ask to
7 pull up what we'll mark as Exhibit 3.
8 And I'll ask if you have seen this
9 document before.

10 (Whereupon, the Elliot Davis
11 report was marked Ahmed Exhibit 3 for
12 identification as of this date.)

13 A. If you scroll up, is this the
14 Elliot Davis report? It just said
15 Arbitrade, Limited.

16 Q. It is Elliot Davis. You'll see on
17 the next page?

18 A. Yes, yes, yes, I have seen this,
19 yes.

20 Q. And are you able to tell me if the
21 standards that you're describing in your
22 report that you say Arbitrade failed to meet
23 are identified in this document?

24 A. So if you see, this is -- I'm
25 saying, this is an agreed upon procedures

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2 report. If you look at the scope of work on
3 this report, it's clearly to confirm whether
4 that document, which is called the Safe
5 Keeping Receipt, or the SKR, whether that
6 existed or not, it is not to be relied on as
7 a confirmation or report confirming the
8 existence of gold.

9 Q. My question is much narrower than
10 that. My question is whether you're able to
11 identify anything in this report that
12 identifies to Arbitrade the various
13 standards that your report says Arbitrade
14 ought to have comported with?

15 A. Yes. So if you see in this
16 report, again, if you see it's independent
17 accountant's report. So where they have
18 mentioned what they have actually performed.
19 So they have to assist clearly in the first
20 paragraph the address which is there for the
21 board of directors, it says, "To assist in
22 determining the existence of a Safe Keeping
23 Receipt held by G4S Dubai."

24 So the steps that they've
25 performed -- if you look at accounting and

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2 auditing standards, I've mentioned them in
3 my report, there are standards of how do we
4 actually -- what are the steps to be
5 followed for physical existence. So
6 verification steps.

7 Q. I'm sorry to interrupt you but I
8 don't want to weigh your answer with having
9 to go back.

10 A. Yes.

11 Q. Can you direct us to the portion
12 of this exhibit you're referring to?

13 A. It's here, it's on the screen. So
14 if you see what it says is on the third
15 sentence after 2018 it says "Is to assist in
16 determining the existence of a Safe Keeping
17 Receipt held by G4S."

18 That was the scope of this report,
19 to determine the existence, right.

20 So in the accounting and auditing
21 standards and I have listed down the
22 accounting and auditing standards about how
23 do you go about validating the existence of
24 a particular document.

25 So if you go to the procedures and

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2 findings, the first things it says, they are
3 confirming the existence of a document. So
4 they received a copy of the Safe Keeping
5 Receipt. This is point 1A from Ricky
6 Sanders.

7 So it's the fact that they're
8 mentioning what are the sequence of the
9 steps of what was followed.

10 Q. If I understand your report and
11 your opinion, you were of the opinion that
12 Arbitrade was obliged to do many things
13 beyond determining the existence of the Safe
14 Keeping Receipt, right?

15 A. Yes, absolutely.

16 Q. And this scope of responsibility
17 also says, "Our procedures also assist
18 Arbitrade in determining if title to the
19 gold is identified in the assignment
20 agreement which vests in SION pursuant to
21 the Safe Keeping Receipt has been assigned
22 to Arbitrade."

23 You see that, right?

24 A. I'm sorry, where are you reading?
25 Which paragraph?

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2 Q. About halfway down the first
3 paragraph it says, "Our procedures will also
4 assist Arbitrade?"

5 A. In the first paragraph?

6 Q. Yes.

7 A. "Our procedures will also assist
8 Arbitrade in determining if title to the
9 gold is identified in the assignment
10 agreement which vests in SION pursuant to
11 the Safe Keeping Receipt has been assigned
12 to Arbitrade."

13 Q. So that was also part of the
14 assignment; right?

15 A. Yes, it's basically -- again, it's
16 only to the extent pursuant to the Safe
17 Keeping Receipt. It's not the existence of
18 the gold, attaching to the gold. It's
19 purely the Safe Keeping Receipt.

20 Q. And the assignment of title;
21 right?

22 A. Of the Safe Keeping Receipt, yes.

23 Q. Well, it says, in determining if
24 title to the gold which vests in SION
25 pursuant to the Safe Keeping Receipt, that's

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2 what is to be determined has been assigned
3 to Arbitrade; right?

4 A. If you go to the next page where
5 it details the assignment agreement
6 provisions, what are they actually
7 confirming if we go onto the next page, page
8 number 2 of this report.

9 Q. Page 2?

10 A. Yes, which is the next page of
11 this exhibit. So point number 2 here,
12 Assignment Agreement Provisions. So it
13 says, "Obtain a copy of the assignment
14 agreement." So on October 3, 2018 we
15 received a copy of the assignment agreement
16 between SION and Arbitrade. It nowhere
17 talks about the title of gold or the
18 validation of gold.

19 The next point, point number B
20 here, October 8, 2018, we read, "The
21 assignment agreement between SION and
22 Arbitrade and noted it's properly executed
23 by our signatures." That's what it says
24 there at the top.

25 If you go on to the next page,

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2 page number 3, which is now type point
3 number C here on the top, read, "The
4 assignment agreement and affirm that there
5 are provisions in the agreement whereby SION
6 assigns Arbitrade."

7 So on October 8, 2018 we read the
8 assignment agreement and determine that the
9 agreement contains the following paragraphs
10 to the ownership, rights and title to the
11 gold.

12 So they are confirming the
13 agreement. If you look at this report as an
14 expert or, you know, or even as, you know,
15 what is the scope of work that expert does,
16 what they're saying here is they are just
17 confirming that this paragraph exists in the
18 agreement. Where does it say that they are
19 confirming the title to the gold?

20 Q. But you agree, do you not, that
21 the statement of the scope of the work at
22 the beginning includes the sentence that our
23 procedures will also assist Arbitrade in
24 determining the title to the gold which
25 vests in SION pursuant to the SKR has been

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2 assigned, saying -- well, the title has been
3 assigned. That's part of what they say
4 they're going to do; right?

5 A. This is, if you see the last
6 paragraph, this agreed upon procedure
7 engagement was conducted in accordance with
8 attestations standards established by the
9 American Institute of the CPA, Certified
10 Public Accountants. We were not engaged to
11 and did not conduct an examination or
12 review. The objective of which would be the
13 expression of an opinion or conclusion on
14 determining the existence of the Safe
15 Keeping Receipt as included in the above
16 procedure.

17 So accordingly, we do not express
18 such an opinion or conclusion. As we have
19 performed additional procedures, other
20 matters might have come to our attention.
21 They are clearly limiting the scope that we
22 have looked at an agreement and we are
23 hereby confirming that in this agreement it
24 states there is a paragraph about assignment
25 and assumption. That's all. If you read

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2 this report.

3 Q. I'll direct you to one portion of
4 the agreement that says you need to confirm
5 that it states that they will do certain
6 things and then you're pointing me to other
7 provisions, but I'd like to stay focused on
8 mine for now.

9 A. Yes, but just before we do that, I
10 want to highlight this, this point C, number
11 1. That is the paragraph which they are
12 confirming that yes, this paragraphs exist
13 in the agreement, that's it. And if you see
14 below that, they are clearly disclaiming
15 that we are not doing -- there's no other
16 procedures, no other validation or
17 examination we have performed. So it's
18 basically -- let's look at this way. If
19 there is an agreement, I'll ask Elliot
20 Davis, can you confirm that this paragraph
21 is mentioned in this agreement. And all
22 they are confirming, yes, there is an
23 agreement signed by these parties and this
24 paragraph exists in this agreement. That's
25 it. That's what this report states.

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2 Nothing more than that.

3 Q. Okay. I'd like to turn you back
4 now to the language that was used to frame
5 my question.

6 At the first paragraph it says
7 beginning our procedures were also, I just
8 want to confirm that you recognize that that
9 language says that they will assist
10 Arbitrade in determining its title to the
11 gold which vests in SION pursuant to the SKR
12 has been assigned to Arbitrade. You see
13 that language; right?

14 A. Sorry, Mr. Tom, there is something
15 in the brackets as well. If you read that,
16 then that specifies how identified in the
17 assignment agreement.

18 Q. Right.

19 A. They are not confirming the title
20 to the gold, as identified in the assignment
21 agreement. So they are making it very clear
22 that what they are confirming is the
23 existence of an agreement, that's it. And
24 they are also later on in the report,
25 they've highlighted specific sections,

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2 which, the specific paragraph. So start
3 reading it without the bracket there. If
4 you read it in the title to the gold as
5 assigned in the assignment agreement which
6 rests with SION. That's the most important
7 part to look at, yes.

8 Q. Just so I understand, you're
9 saying that if we read the language in
10 determining if title to the gold as
11 identified in the assignment agreement has
12 been assigned to Arbitrade, you're reading
13 the parenthetical as identified in the
14 assignment agreement means that they are not
15 going to assist Arbitrade in determining if
16 title to the gold has been assigned to
17 Arbitrade; is that right?

18 A. Yes, that's right. So if you see
19 the last page which is on the screen right
20 now, the last paragraph, it clearly
21 mentioned that. They are only in accordance
22 to the attestation standards which means
23 they are not engaged to conduct any
24 examination or review.

25 Q. But it doesn't say anything about

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2 title in that paragraph?

3 A. What is it that they are
4 confirming the assignment agreement. So if
5 you see, paragraph C here on October 8,
6 2018, we read the assignment agreement and
7 determined that the agreement contained the
8 following paragraph. And the first, which
9 is where, the title, if you see this
10 paragraph, where the third line of that
11 paragraph says, "All of the assignments will
12 ship rights and titles in the gold which
13 vests in the assigning --

14 So in the beginning of the report
15 they are clearly mentioning that as per the
16 assignment agreement. So all they are
17 saying is there is an agreement and this
18 agreement has a paragraph which talks about
19 assignment and assumption and we are
20 confirming that this agreement exist.
21 That's what they are telling in this report.

22 Q. All right. Well, we didn't make
23 our own readings about the language about
24 title. But I'd like return to the question,
25 I've asked you initially about the Elliot

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2 Davis report where it identifies the
3 standards that Arbitrade was obliged to
4 comport with and that you've identified in
5 your report, you pointed out that it states
6 limitations to its scope. But my question
7 is different than that. Does this report
8 anywhere identify the standards that your
9 report says that Arbitrade ought to have
10 complied with?

11 A. Again, this is an agreed upon
12 procedure.

13 Q. I didn't say agreed upon
14 procedure. To be clear, my question is --

15 MS. SUM: Stop for a second. Tom,
16 let the witness finish testifying. He
17 is trying to finish answering the
18 question asked.

19 MR. KISSANE: He's going to answer
20 the same way he did before and I'd like
21 to try to be more efficient than that.

22 Q. Sir, you can answer however you
23 like. I just ask that you allow me to give
24 a clarification and then you can answer how
25 you like. I'm not going to try to control

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2 your answer. But what I do want to do is
3 try to be clear. I'm not looking to revisit
4 whatever limitations are in this report.
5 I'm asking a very narrow question as to
6 whether, not why, but whether the Elliot
7 David report identifies the standards that
8 your report says Arbitrade ought to have
9 complied with?

10 MS. SUM: Objection. Asked and
11 answered. He answered your question
12 earlier.

13 Q. Well, then I missed it. So I
14 guess is it yes or no, does it or does it
15 not identify those standards?

16 A. So once again let me just, you
17 know, repeat my answer. These are agreed
18 upon procedures. If you see the screen
19 right now, it says, "In accordance with
20 attestation standards established by the
21 American Institute of Certified Public
22 Accountants." So these standards, the
23 process, the agreed upon procedures are
24 followed based on. So, I mentioned in
25 regards to auditing and accounting

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2 standards, you know. So if they are asking
3 Elliot Davis to confirm that the existence
4 of an agreement and whether this particular
5 paragraph exists in that agreement, they
6 have done that.

7 Q. All right, let me try to simplify
8 the question.

9 Can you please point me to each
10 portion of the Elliot Davis report that
11 identifies the standards that your report
12 says Arbitrade ought to have complied with?
13 Just scroll through it and you can point me
14 to those portions.

15 A. Sorry, Tom, but you see, Elliot
16 Davis was not appointed to conduct the due
17 diligence. So why would Elliot Davis in
18 their report mention all the obligations of
19 Arbitrade? That was not the assignment. If
20 we look at clearly on page 1, it says there
21 are two things, assist in determining the
22 existence of SKR and number 2, assist in
23 determining the title to the gold as
24 identified in the agreement. That's it.
25 These were the two tasks given to them and

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2 that is what they have mentioned that they
3 have identified the Safe Keeping Receipt,
4 that's point number 1 and point number 2,
5 they are clearly mentioning, point number
6 2C, they have mentioned that yes, we have
7 reviewed the agreement and there is a
8 paragraph about the title being transferred
9 and we are confirming that. And we are
10 confirming that based on the CPA standards
11 on attestation.

12 Why would it list anything else,
13 any other regulations when they were not
14 tasked to do so by Arbitrade?

15 Q. You're asking a why question.

16 A. What I'm trying to say is, Elliot
17 Davis was tasked with clearly two things,
18 right. Those two things are mentioned in
19 the very beginning of their report. And in
20 doing so, if they are not required to
21 conduct a due diligence or a physical
22 verification of gold or comply with the Good
23 Delivery standards or the OECD standards or
24 the international accounting standards of
25 physical existence, then why would they

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2 mention it in their report? They wouldn't
3 mention it. And what they have done is
4 clearly they have followed the attestation
5 requirements which they mentioned on the
6 last page of their report that we have
7 complied with the attestation standards of
8 the certified public accountants, the CPAs.

9 If they were, if they were tasked
10 to conduct a due diligence, if they were
11 tasked to conduct a physical examination of
12 the gold, they would have listed all the
13 standards that I have mentioned, whatever
14 they would have relied on. But because they
15 were not tasked to do that.

16 Q. Does your opinion include anything
17 on the subject of whether the seller of
18 bullion has an obligation to advise a buyer
19 of the applicable standards that are
20 described in your report?

21 A. No. So both parties are
22 independent. So in my report it clearly
23 mentions the dependence which includes the
24 supplier. The supplier equally has same
25 responsibilities. Both parties are

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2 responsible to comply with the regulations,
3 but they're independent. We can't say, you
4 know, no, the laws don't say that, no, the
5 supplier is obligated to inform the buyer.
6 No. The buyer has to ensure that they are
7 in compliance on their own. They should not
8 just rely on the supplier informing them
9 about the regulations. Both parties need to
10 follow the regulatory compliances.

11 Q. Are you aware whether anyone from
12 SION, G4S or Barber or anyone on the
13 seller's side, had any discussion with
14 anyone from Arbitrade regarding what you
15 described as the standards applicable to
16 both of them?

17 A. There were discussions on the
18 physical verification of gold. So, you
19 know, the past email exchange which was
20 there, right, which was -- which I've seen,
21 right.

22 There was also an email to KPMG
23 which was written. So there were
24 discussions with the auditors. There were
25 conversations on emails between the parties,

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2 the defendants around, you know, how do we
3 physically verify or what does this SKR mean
4 or the third party auditors to be appointed.

5 But to answer your question, the
6 supplier is not obligated to inform the
7 buyer that you need to satisfy these
8 regulatory requirements. The supplier
9 should be following their own regulatory
10 requirements and as part of that process
11 they should have sent in a counsel before,
12 asked the relevant KYC questions to the
13 buyer also, get the information which is
14 required to conduct the due diligence which
15 I mentioned earlier.

16 Q. Right, but my question here wasn't
17 whether the seller had that obligation. My
18 question was whether putting aside the
19 question of obligation, whether the seller
20 had identified to Arbitrade the standards
21 that you say applied to both of them, and
22 you've referred to some communications but
23 it wasn't clear to me if you were saying
24 that those communications included that
25 disclosure.

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2 So even though I've asked it
3 before, with that background I'm going to
4 ask the question again, putting aside any
5 question of obligation, are you aware of
6 whether or not the seller, anyone on the
7 seller's side communicated to Arbitrade the
8 standards that your report says apply to
9 both of them in connection with the gold
10 transaction?

11 A. Again, outside the scope of my
12 work, why would I investigate whether the
13 supplier had actually advised the buyer on
14 what procedures or what standards to be
15 followed? It's outside the scope of my
16 work.

17 Q. Are you aware from the materials
18 you've reviewed in preparing your report and
19 retained Elliot Davis?

20 A. I would have to look at the Davis
21 report and see who engaged them. I'd have
22 to go back and check.

23 I mean, if you have the document,
24 you can show it to me.

25 Q. Well, I'll ask you the same

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2 question just for consolidation as to BDO.

3 A. Okay, so BDO?

4 Q. Yes.

5 A. So the report of the BDO?

6 Q. Who in Arbitrade engaged them?

7 A. I would need to check that. You
8 know, again in terms of who engaged them.

9 Q. Do you have an affirmative opinion
10 as to either BDO or Elliot Davis that it was
11 Troy Hogg who engaged them?

12 A. As I said, I would have to go back
13 and check. You asked me who engaged them.
14 I have to look at the engagement letter, who
15 signed that engagement letter and who was
16 copied on the email. So if that question
17 would have come in advance I would have gone
18 and pulled out that document. So the BDO
19 report is there, but who engaged them, I
20 would have to look into those documents.

21 So again, you know, in terms of
22 who engaged them will come back to the same
23 question about Arbitrade. Arbitrade was --
24 the report was issued to Arbitrade, so the
25 Elliot Davis report, as you see, right, the

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2 report. Now who engaged them is a question
3 that I did not investigate, that was not my
4 scope. But I can check and confirm to you
5 if there is, you know, who it was addressed
6 to.

7 So if you see it was addressed,
8 the BDO report was addressed to
9 Mr. Schutzman, I have the report. Now I
10 have to go back and check the emails, who
11 were copied on the emails and who approved
12 this.

13 Q. Apart from whatever review of
14 documentation might show, do you have any
15 independent knowledge as we sit here today
16 suggesting that it was Troy Hogg who
17 retained either Elliot Davis or BDO?

18 A. The report has been addressed to
19 Arbitrade, right. Both the reports are
20 addressed to Arbitrade. In the BDO report
21 it does mention there Schutzman. In the
22 Elliot Davis report it does not address to
23 any individual person, right. I would need
24 to go back and look at the communication and
25 see where Mr. Hogg was copied or provided

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2 any approval on the email. That is
3 something which I'll have to go back and
4 check.

5 Again, that is not -- that -- what
6 we are trying to establish is how was
7 Mr. Hogg involved, you're asking me. That's
8 a legal question, whether he was -- whether
9 he was the defendant or not, whether he was
10 the officer or not, it comes back to the
11 same question which you asked me before,
12 which I said it's a legal counsel question.
13 From my perspective, there was a report
14 which was issued by BDO to Arbitrade, right,
15 and there was a report issued by Elliot
16 Davis to Arbitrade. And I said in the
17 beginning that the defendants from the SEC
18 complaint, the alleged people who were
19 responsible and had control over Arbitrade,
20 are the people defined as defendants in my
21 report.

22 MR. KISSANE: Respectfully, I'm
23 going to move to strike that response,
24 because it evades my question entirely.
25 Q. And I ask you to listen when I ask

1 F. AHMED

2 the question again and try to focus on it
3 narrowly.

4 What I was trying to ask you was,
5 whether apart from whatever any review of
6 documents might later show, whether you had
7 any independent knowledge as we sit here
8 today concerning whether either Elliot Davis
9 or BDO was retained by Mr. Hogg on behalf of
10 Arbitrade?

11 A. Again, that was not in my scope of
12 work to validate that whether Mr. Hogg
13 retained BDO or Elliot Davis. So I won't be
14 able to comment on this.

15 Q. Would your answer be any different
16 if the question were Mr. Goldberg?

17 A. The same.

18 Q. Do you recall seeing the signed
19 engagement agreements with each of those
20 firms?

21 A. With BDO, yes. With Elliot Davis,
22 this report. The defendant accountant
23 support with BDO, there is the -- there is
24 the engagement letter, the proposed
25 statement of work, which is the proposed one

1 F. AHMED

2 which is about the anti-money laundering
3 which was not, I don't see any report on
4 that whether that was done or not. But
5 clearly it talks about the due diligence.
6 So as you were asking me, BDO, they did
7 submit a statement of work. This is if you
8 want to refer to the BDO report which is
9 there, along with that there is the proposed
10 statement of work which they were proposing
11 to do in terms of the AMLs and sanction
12 work, which is the due diligence we are
13 talking about.

14 But I don't see any work that was
15 assigned to them on that.

16 Q. And as we sit here today, do you
17 have any knowledge, independent of what
18 later review of documents might reveal as to
19 whether the proposals from those firms or
20 any instructions provided to them were via
21 emails that included Mr. Hogg?

22 A. Again, that was not what I was
23 investigating or validating whether Mr. Hogg
24 was providing any instructions to them.

25 Q. And would your answer be any

1 F. AHMED

2 different with respect to Mr. Goldberg?

3 A. The same.

4 MR. KISSANE: I'd ask to call up,
5 I'm going to put up for display what's
6 going to be marked as Exhibit 4 for
7 today's purposes.

8 (Whereupon, an agreement between
9 SION and Arbitrade was marked Ahmed
10 Exhibit 4 for identification as of this
11 date.)

12 Q. I ask if you have ever seen this
13 document before, you know, instruct us how
14 to scroll through it, if that's appropriate
15 to help you answer the question.

16 A. Yes, I have seen this document.

17 Q. And this is entitled Gold
18 Procurement, vaulting, Trading and Sales,
19 the agreement between SION and Arbitrade,
20 right?

21 A. Yes, that's right, yes.

22 Q. And if you would go to the end of
23 the document.

24 Do you see here who signed the
25 document on behalf of Arbitrade?

1 F. AHMED

2 A. Yes, it is Mr. Schutzman.

3 Q. And Barber signed on behalf of
4 SION?

5 A. Yes.

6 Q. Did you have any occasion to
7 investigate the metadata for this document
8 in order to determine who had written the
9 agreement or participated in its authorship?

10 A. It's beyond the scope of my work.

11 MR. KISSANE: Close that please
12 and call up the next one.

13 (Whereupon, a memorandum of
14 understanding between SION and
15 Arbitrade was marked Ahmed Exhibit 5
16 for identification as of this date.)

17 Q. I'm going to ask you the same
18 question, whether you recognize this
19 document?

20 A. Yes. Yes, I do recognize this
21 document.

22 Q. So this is a Memorandum of
23 Understanding between SION and Arbitrade
24 concerning evidencing title and \$10 billion
25 of gold?

1 F. AHMED

2 A. Yes.

3 Q. Looking at the end of this, can
4 you see who signed this on behalf of
5 Arbitrade?

6 A. Yes, that's Len Schutzman.

7 Q. And signed by Mr. Barber on behalf
8 of SION; right?

9 A. Yes.

10 Q. As to this document as I asked on
11 the last one, do you have any occasion to
12 review the metadata to determine who had
13 written or participated in the authorship of
14 the document?

15 A. No. It's beyond the scope of my
16 work. Yeah. This document is, if you see
17 Barber 002. There is a document which is
18 Barber 003. There is an email from Troy
19 Hogg to Chris Eaton from KPMG which includes
20 Mr. Goldberg as well as Mr. Barber as well.
21 And it talks about when he's stating that,
22 "Good day, Chris. My name is Troy Hogg and
23 I am from Arbitrade, Limited." It talks
24 about the news in the country, and KPMG, and
25 it also talks about in terms of the Safe

1 F. AHMED

2 Keeping Receipt, you know, and both
3 Arbitrade board of directors along with SION
4 would like to see this. Now, if you've seen
5 that email, that I've seen that, so I was
6 mentioning to you the email since you've
7 shown me this document. The next document
8 in the back after this, where there is an
9 email from Troy Hogg and it talks about
10 these issues in his capacity. Again, beyond
11 my legal distinctment. Since you asked me
12 the question, there is the email where he's
13 talking about all the issues relating to
14 Arbitrade and stating that all the partners
15 and board of directors have approved this.

16 MR. KISSANE: I'm going to move to
17 strike everything you just said. And
18 just so you understand why I'm doing
19 that, the way this process works is
20 you're here to answer my questions,
21 anyone else who might have questions
22 for you and answer those when they have
23 those answers.

24 If you are unresponsive to my
25 question, I'm entitled to make a motion

1 F. AHMED
2 to strike that the court can ultimately
3 resolve. So I'll ask that you not
4 volunteer information for me but focus
5 on answering my questions going
6 forward.

7 MS. SUM: Just one second.
8 Tom, you did ask a question
9 earlier, Mr. Ahmed is providing an
10 answer to the question that you asked
11 earlier. So there is no basis for your
12 motion to strike. Please, Mr. Ahmed.

13 MR. KISSANE: Well, to the extent
14 that it is entered as responsive, I
15 will determine that for making any
16 motion and proceed accordingly.

17 THE WITNESS: Mr. Tom, you just
18 asked me --

19 MS. SUM: I'm sorry.

20 THE WITNESS: I'm sorry.

21 MS. RAPOPORT: I'd like to
22 interrupt here really quickly. I don't
23 know what you're talking about either.
24 Either can it be read back in the
25 record or can you talk about what

1 F. AHMED

2 you're referring to Mr. Ahmed, because
3 I'm not following that this was
4 something related to another question.

5 THE WITNESS: So the question that
6 Mr. Tom just asked me is about any
7 email with Troy Hogg, around the SKR or
8 the BDO or the Elliot Davis report. So
9 I'm referring to a document, so I'm
10 answering your question, Mr. Tom. It's
11 titled in the back at 54003. It's an
12 email dated July 26, 2018 that went
13 from Mr. Troy Hogg to a number of
14 people and it's addressed to Chris
15 Eaton from KPMG. I mentioned this
16 before also in my testimony, there was
17 an email. So that is the email if you
18 see, where you're asking where did I
19 see that Mr. Troy was engaged in
20 discussions.

21 I kept saying that he was engaged
22 in discussions in email. So there is
23 an email which I'm answering your
24 question.

25 Q. Okay. Well, the record will

1 F. AHMED

2 enable us all to make our own judgment?

3 A. I want to actually -- because you
4 asked me the question, if we can pull up
5 that email, you asked me about auditing. It
6 talks about specifically Mr. Troy Hogg
7 requesting Chris Eaton from KPMG to retain
8 them to conduct audits in order to verify
9 transactions with the proper and correct
10 forum that we believed should be. You asked
11 me the question if I have seen anything
12 where Mr. Troy Hogg was engaged with
13 auditors like BDO or Elliot Davis or KPMG.
14 I'm referring to the email where he did, he
15 was requesting KPMG to conduct the audit.
16 Can we see that email?

17 Q. I submit the responsive answer to
18 my question would have been yes. And then
19 we could have seen where I went with it.
20 But I do not believe the information you're
21 giving is responsive to my question and I do
22 not wish to convert this into a process
23 whereby you mark exhibits for questioning.

24 A. Sorry, Mr. Tom. You had asked me
25 if I recall, just now, right. When you

1 F. AHMED

2 talked about BDO and Elliot Davis report,
3 that is the time when I, I says it is there,
4 the emails, that I need to go into the
5 document. So this is not the question
6 before the break. This is the question that
7 you asked me right now. And I'm referring
8 you to a document which I would like to
9 include here which talks about --

10 Q. Sir.

11 A. You asked me about the auditing
12 standards.

13 Q. You don't include documents --

14 MR. BRAVERMAN: This is Steve
15 Braverman.

16 I'm going to object to this as
17 well. Mr. Ahmed, you are not the
18 attorney, you are not here to prove
19 anything. You are just here to answer
20 their questions. And you know, I
21 object to this. You shouldn't be
22 bringing anything up unless it's asked
23 specifically. And I'm putting an
24 objection in.

25 He told us earlier that he's not a

1 F. AHMED

2 lawyer and that he doesn't answer any
3 law questions. Now he's acting as a
4 lawyer trying to show that he's proving
5 --

6 MS. SUM: Mr. Braverman, put your
7 objection on the record, let me
8 respond.

9 To be absolutely clear, Tom has
10 chosen to conduct this deposition in a
11 manner where he asks general questions
12 of the expert as if he's supposed to
13 pull out of thin air an answer without
14 being able to refer to documents. And
15 while Mr. Ahmed is answering the most
16 recent question from Tom, he's
17 providing the reference to the
18 documents that Tom could have very
19 easily brought up on the screen and
20 shown it to him rather than having him
21 trying to remember, okay.

22 MS. RAPOPORT: No, no, no.

23 MS. SUM: You all may not like the
24 order in which this information is
25 coming out.

1 F. AHMED

2 MS. RAPOPORT: You are not his
3 attorney.

4 MR. BRAVERMAN: It doesn't matter.
5 I can assert whatever objection. And
6 if you all want to make objections, I
7 can certainly respond on the record.

8 MR. KISSANE: Well, I'm going to
9 proceed with my questioning.

10 So I'm going to turn to page 15.
11 Actually, I'll ask if we can bring back
12 up the report, Exhibit 1, your report,
13 and at page 15.

14 Q. You say, about the middle of the
15 page, beginning of the paragraph, it says,
16 "Second, the independent accounting firms
17 were directed or not allowed to perform
18 certain procedures by SION."

19 Do you know if that direction was
20 from SION, not from Arbitrade; right?

21 A. No. Sorry. Independent
22 accounting firms were directed or not
23 allowed to perform certain procedures,
24 certain procedures by SION.

25 Yes, the existence of the -- it's

1 F. AHMED

2 not about the instruction of the report to
3 BDO, no. It's basically there are physical
4 inventory records that SION should have
5 maintained. So it's not about instructing
6 the auditors.

7 Q. Wait, you say here, "The
8 independent accounting firms were directed
9 or not allowed to perform certain procedures
10 by SION?"

11 A. The next sentence -- yeah, but
12 then the next sentence says that "defendants
13 ignored the red flag presented when SION
14 told BDO to drop its request for a
15 videoconference."

16 So SION had told BDO to drop the
17 request for a videoconference. That is what
18 I'm referring to. So SION was not, you
19 know, instructing. The defendants ignored
20 here. When I say defendants, Arbitrade and
21 all the parties involved, they ignored the
22 red flags. When SION dropped the request
23 for videoconference.

24 Q. Well, let me understand. Are you
25 now saying that your report is mistaken when

1 F. AHMED

2 it says --

3 A. No, it's not mistaken.

4 Q. Sir, sir, you got to let me finish
5 the question.

6 Are you now saying that you meant
7 to write this differently rather than to say
8 as it does now, that the independent
9 accounting firms were directed or not
10 allowed to perform certain procedures by
11 SION, it says SION not Arbitrade. Are you
12 now saying that that's not correct?

13 A. It is absolutely correct, okay.
14 SION is one of the defendants. So see, the
15 defendant accounting firms were directed and
16 not allowed to perform certain procedures by
17 SION. If you read the next sentence in
18 conjunction with this sentence, you'll
19 understand what SION did not allow --

20 Q. Sir, the question, we'll get to
21 what you're raising, but you're --

22 A. You have to hear my answer.

23 MS. SUM: Objection. Tom, you
24 cannot stop a witness from completing
25 his answer.

1 F. AHMED

2 A. So we should not be reading this
3 sentence out of context, Mr. Tom, read both
4 sentences together. Let me then read it out
5 to you.

6 "Second, the defendant accounting
7 firm were directed or not allowed to perform
8 certain procedures by SION. Defendants
9 ignored the red flag presented when SION
10 told BDO to drop its request for a
11 videoconference call."

12 So the request for a
13 videoconference call was dropped at the
14 request of SION. That was the particular
15 step, you know, the procedure that SION did
16 not allow the independent accounting firms.
17 Let's not read it as independent accounting
18 firms were hired by SION. I did not say
19 that. It doesn't read that way.

20 Q. I don't know where that's coming
21 from, my question is very narrow. And I
22 believe you answered it. You also answered
23 my next question which was not responsive to
24 the last one, but that's okay.

25 I wanted to proceed to the

1 F. AHMED

2 language you're talking about. You talk
3 about defendants ignored the red flag
4 presented.

5 We've talked on several occasions
6 earlier about your use of defendants as a
7 collective term and whether it extends to
8 Mr. Hogg and Mr. Goldberg. I guess what I'd
9 like to ask you here, when you say that
10 "defendants ignored the red flag," do you
11 have any basis for attributing that action
12 of ignoring the red flag to include Mr. Hogg
13 apart from the answers you gave earlier
14 about other questions on why they should be
15 included with Arbitrade as to various
16 statements that you had made?

17 A. So once again, as I said, I am not
18 a legal counsel to establish his
19 responsibilities. But I told you that there
20 are emails which clearly show, which I have
21 seen and I have actually highlighted just a
22 few minutes ago which you're not accepting
23 as the email from Troy Hogg which is to KPMG
24 which talks, you know, about conducting
25 audits in order to verify transactions. It

1 F. AHMED

2 talks about the acquisition to confirm the
3 gold bullion acquisition from SION trading.
4 It also confirms about the board of
5 directors of Arbitrade and partners along
6 with SION would like to see this done in
7 order to verify our actions publicly for
8 each step of the process. So that email, it
9 clearly shows where Troy Hogg had actually
10 instructed. So you asked me that question
11 so I'm referring you back to that email.

12 Again, in my scope of work, it was
13 not -- my scope of work did not require me
14 to establish the evidence that yes, what
15 were the responsibilities of Mr. Hogg. But
16 the email I have referred, I told you there
17 was emails and this is the email I'm
18 referring to 26 of July 2018.

19 Q. If I understand you correctly
20 you're saying that that email is an example
21 of evidence that you believe, apart from
22 whatever we discussed on the subject
23 earlier, you want me to know that you think
24 that supports the inclusion of Mr. Hogg
25 among the defendants who you say ignored the

1 F. AHMED

2 red flag presented when SION told BDO to
3 drop its request for a videoconference;
4 right?

5 A. See, whether that email proves it
6 or not is a legal question, Tom. You asked
7 me this question in different ways before
8 the break. And what you wanted me, what you
9 were asking me is did I see any emails. I
10 said there were emails, I would have to see
11 or remember or recall the email. But it is
12 outside my agreement to establish his
13 position in Arbitrade. Now, referring you
14 to the email, I cannot make derivations or
15 derive anything from that email which is a
16 legal counsel matter, right. All I can say
17 is that there is instructions on audit,
18 there is instructions on the bullion
19 acquisition, right, on that email and there
20 is communication with auditor, KPMG. That's
21 all I can say which is a fact.

22 Q. Okay. Well, you brought it up not
23 me, so that's the only reason I'm asking you
24 to clarify whether you are making, offering
25 the opinion that that document is relevant

1 F. AHMED

2 to your contention that Mr. Hogg is among
3 the defendants who ignored the red flag
4 presented, as stated at page 15 of your
5 report. I think you've answered that.

6 So I'm going to ask you whether
7 your answer would be the same if the
8 question were presented with respect to
9 Mr. Goldberg rather than Mr. Hogg?

10 A. I'm sorry, what you just mentioned
11 that you understand my answer. Can you just
12 clarify? What did you think as my answer,
13 please?

14 Q. Well, you gave your answer, and if
15 you think the record is unclear, I would ask
16 you to give me your answer. I prefer not to
17 get into my characterization.

18 But the question was whether the
19 email that you're talking about is something
20 you're identifying as supporting the
21 contention in your report that Mr. Hogg
22 should be included among the defendants who
23 you say ignored the red flag presented when
24 SION told BDO to drop its request for a
25 videoconference?

1 F. AHMED

2 A. That's why I wanted to clarify
3 this point. I did not anywhere refer that
4 email to the point on this report about, you
5 know, BDO. That email has nothing to do
6 with BDO. That email is an email from
7 Mr. Hogg to KPMG. This is a completely
8 different point. Defendants is Arbitrade.
9 There was a red flag when somebody stopped.
10 So when SION dropped the request for a
11 videoconference that was a red flag for the
12 defendants. The defendants include Mr. Troy
13 Hogg, Mr. Braverman, the defendants listed
14 in the SEC's complaint. So just to keep it
15 on record clear, I'm not referring that
16 email has anything to do with the BDO
17 dropping or the red flags, no.

18 Q. So let me re-ask the question
19 which I had thought you had mentioned in
20 that email in response to, maybe you did,
21 maybe you didn't, but I want to ask a
22 question again. And you can make a fresh
23 judgment as to whether that email should be
24 part of the response or not.

25 The question as I recall asking it

1 F. AHMED

2 was whether apart from the reasons you gave
3 in earlier testimony about other questions
4 around the subject of whether Mr. Hogg or
5 Mr. Goldberg should be included in the term
6 defendants, as to other parts of your
7 report, whether there is anything beyond
8 that that you rely upon in saying that
9 Mr. Hogg or Mr. Goldberg should be included
10 among defendants for purposes of this
11 statement at page 15, that defendants
12 ignored the red flag presented when SION
13 told BDO to drop its request for a
14 videoconference. Is there anything, whether
15 it's that email or otherwise, beyond what
16 you've said earlier that goes to that
17 subject in your view?

18 A. If we can actually break down this
19 question, I'm confused. I'm not clear.

20 So very clearly by not allowing a
21 videoconference is a red flag and the
22 defendants ignored it. That's my statement
23 here. So that's it. So that's the
24 statement.

25 Q. But you see, it's also part of

1 F. AHMED

2 your report that the defendants failed to
3 perform an obligation by ignoring it; right?
4 Isn't that part of what you're saying?

5 A. Yes, the defendants ignored the
6 red flag, right to drop, right, yes. And as
7 a result of if, they failed to, yes. So
8 you're saying that there was an obligation,
9 if that request was dropped, then the
10 defendants should have actually, you know,
11 taken it as a red flag and taken additional
12 steps to validate that information.

13 Q. What I'm getting at with this
14 question is whether there is anything apart
15 from what we've covered earlier on other
16 examples of where I've asked you if Mr. Hogg
17 or Mr. Goldberg was among the defendants who
18 you said failed to perform certain
19 obligations, whether it was a specific
20 requests to ignoring the red flag here, is
21 there anything else you relied on in
22 concluding that Mr. Hogg and Mr. Goldberg
23 should be included among the defendants who
24 ought to have done something that they
25 failed to do when SION told BDO to drop its

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2 request for a videoconference? It's a
3 little bit of a dense question, my
4 apologies, I can rephrase it if you'd like,
5 but if you understand it, please give me an
6 answer?

7 A. But yes, let's go through the
8 question. So when clearly they said we
9 would want to do a physical verification and
10 there were email exchanges about, you know
11 et cetera, but we'll come to that later on.
12 On the BDO part it is clear, what I mention,
13 that this is a red flag that should have
14 been further investigated or further steps
15 should have taken place.

16 Q. And why do you say that either
17 Hogg or Goldberg had an obligation to do
18 something in response to that red flag?

19 A. Well, once again I said
20 defendants. So we are going back to the
21 same question again. Establishing whether
22 they were officers or directors or the
23 controller of the company or participating
24 in various decision making process as per
25 the email that I just quoted dated in

1 F. AHMED

2 July 28 is a legal counsel matter. That's
3 not something for me to opine on that
4 whether they had the control or not.

5 But they are named as defendants
6 in the allegations. I mentioned to you what
7 I have seen is the email where they are
8 participating in these discussions whether
9 with auditors or between company officials,
10 directors.

11 Q. Can we go to page 15?

12 MS. SUM: Tom, can I ask you
13 about --

14 THE WITNESS: Can we take a break?

15 MS. SUM: I was just about to ask
16 you if we can take a break.

17 MR. KISSANE: Yes, I'm sorry.

18 MS. SUM: It sounds like both he
19 and I were asking for a break at the
20 same time, so.

21 MR. KISSANE: Yes, that's fine.
22 Actually, can we go off the record.

23 MS. SUM: Sure.

24 (Whereupon, an off-the-record
25 discussion was held.)

1 F. AHMED

2 (Whereupon, a short recess was
3 taken.)

4 Q. I have pulled back up what is
5 marked for today's purposes as Exhibit 5,
6 despite the tab on the upper right, it says
7 Exhibit 3 from prior use. I'm going to ask
8 if we can display page 2 of that document
9 just to clarify something from earlier.

10 I believe in our earlier
11 discussion I may have said or maybe you did,
12 I don't recall, that this was signed by
13 Mr. Schutzman and I just want to point out
14 for the record that as the document reveals,
15 Mr. Schutzman's name is crossed out on this
16 document and the name Lawrence Meyer is
17 written in beneath it and it appears to be
18 Mr. Meyer's signature that appears above it.

19 A. Yes.

20 Q. That's the question I'm asking
21 you, and you're welcome if you have
22 something responsive to that to say so, but
23 I just wanted to clarify?

24 A. No, that's fine. I can see that,
25 correct. So under the name printed is Len

1 F. AHMED

2 Schutzman but than Lawrence Meyer is cutout
3 and the signature actually is -- I don't
4 know the signature, but it says Lawrence
5 Meyer.

6 So this again, Lawrence Meyer is
7 the one whose signature. So do you have a
8 question on this or?

9 Q. No, I wanted to clarify. I think
10 left the record suggesting otherwise. I
11 just wanted to clarify that it was Mr. Meyer
12 who signed it.

13 So I'll ask then if we can put
14 that document down and go back to
15 Mr. Ahmed's report.

16 A. Just going back on the document.
17 So what was the question, Mr. Tom, you had
18 on that particular document? You showed
19 that document just to clarify that it's
20 signed by one of the other person and not by
21 Schutzman?

22 Q. That's correct.

23 A. So there was no question on
24 Mr. Hogg on this?

25 Q. That's correct.

1 F. AHMED

2 I had no further questioning on
3 the document. I just sought to clarify the
4 signature.

5 Okay. So if we can turn to page
6 15 of the report, please.

7 I'm directing your attention to
8 page 15 of your report, and towards the
9 bottom of which you state that the email
10 dated the 23rd of October 2018 Stephen
11 Braverman wrote to Joseph Chapman of Bureau
12 Veritas, "We have an SKR that has already
13 been audited by three accounting firms. I
14 really wanted to discuss with you what the
15 options are. The bullion is significant in
16 several security facilities in Dubai.
17 Counting bars I believe is overkill."

18 Do you know what Mr. Braverman's
19 role, if any, was at Arbitrade as of
20 October 23, 2018?

21 A. I believe he was the Chief
22 Operating Officer. That's what -- that's
23 what his role has been defined, you know, he
24 was -- he would be responsible for the
25 operations as the Chief Operating Officer.

1 F. AHMED

2 So there is Exhibit 13 which talks about the
3 roles of various individuals, the board of
4 directors and two principal consultants and
5 which is where he was defined as seeing some
6 of the other emails as well.

7 Q. Are you referring to the white
8 paper?

9 A. I'm referring to -- so if you see,
10 there is -- there is an email, it's Exhibit
11 13. It's basically an email that came from
12 Cryptobontix.

13 Q. Well, I'll approach the issue this
14 way.

15 A. So it is addressed to Mr. Steve
16 Braverman, since you asked me that question,
17 it's addressed to him. And it lists down,
18 you know, about Arbitrade team. So you have
19 that document, if you can pull it up, we can
20 just go through that to answer your question
21 on his role.

22 Q. We're going to proceed in the
23 normal course whereby I put up the documents
24 and ask you the questions.

25 You have every right to call my

1 F. AHMED

2 attention to the fact that you have
3 something in mind and I'd like to ask you
4 about it in the following, to the following
5 extent.

6 Do you know how you came to the
7 conclusion that Mr. Braverman was the Chief
8 Operating Officer? And if it includes by
9 reference to that document, feel free to say
10 so. If it includes other things, feel free
11 to say that.

12 A. Yes, I mean, if you look at again,
13 if you see, there is the defendant in the
14 complaint by SEC. It says Braverman is --
15 on page number 5, Is a resident Newbury
16 Park, California. Braverman was held out as
17 a Chief Operating Officer of Arbitrade from
18 September 1988 through June 2018. Braverman
19 was a registered representative associated
20 with registered broker dealer.

21 So that's a document where Chief
22 Operating Officer of Arbitrade comes from.

23 In addition to that, if you look
24 at the email dated 7/5/2018, I'm presuming
25 that's 5th of July 2018, email from

1 F. AHMED

2 Cryptobontix to Steve Braverman and on that
3 email it's a long email which talks about
4 the roles and responsibilities including
5 Mr. Troy Hogg's role.

6 And what I understand is Mr. Troy
7 Hogg was the owner of Cryptobontix as well.
8 So apparently the email is coming from his
9 company.

10 And that email actually defines
11 that, if I can, there are four aspects that
12 the company is building currently. That is
13 operational management, the support teams,
14 the compliance teams and the board of
15 advisors. Steve Braverman who was tenanted
16 with operating the trading desk and Knight
17 Securities with other investment houses for
18 many years will oversee the build out of the
19 Bermuda operations located at Victoria Hall
20 which is Arbitrade's new seven-story office
21 tower.

22 This paragraph is just below where
23 Troy Hogg's role has been defined, that Troy
24 was the visionary, designer of everything at
25 Arbitrade, from the all-in-one merchant

1 F. AHMED

2 binding platform to the bullion backed
3 tokens to RBP and mining structure.

4 So after this paragraph, clearly,
5 it talks about Steve Braverman.

6 So these are the two sources that
7 I have, you know, that I can recall. I can
8 look at, you know, again, other emails. If
9 there was a footer on the email defining his
10 position. But these are the two documents
11 which at the top of my head are here
12 defining his role as an operating officer of
13 somebody who was responsible for the
14 operations.

15 Q. So do I understand you to be
16 saying that you relied upon the statement in
17 the email you've identified saying that
18 Mr. Braverman would oversee build-out of the
19 Victoria Hall operations as one of the
20 reasons you concluded that he was Chief
21 Operating Officer?

22 A. No. What I mentioned was in the
23 complaint, the SEC's complaint on the
24 defendants, Braverman's role has been
25 defined as the Chief Operating Officer of

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2 Arbitrade.

3 You asked me another question,
4 that was there any other documents where his
5 role was being defined and that is where I
6 referred you to the email from Cryptobontix
7 to Steve Braverman where it talks about his
8 operating responsibilities.

9 Q. Okay.

10 A. And then there are many other
11 emails, including the one that, the Bureau
12 Veritas one where he is engaging and he's
13 answering. So if you ask me the specific
14 question, where did the term Chief Operating
15 Officer come from, it came from the
16 complaint document. But where else? He has
17 been mentioned, you know, if I recall from
18 the documents, that email which I just
19 mentioned talks about his role.

20 Q. And to your recollection, did any
21 of the other emails that you commenced
22 identify Mr. Braverman as Chief Operating
23 Officer?

24 A. I will have to look into those
25 emails. You're asking me a question. There

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2 are a number of emails that we've reviewed
3 but I will have to look into that, whether
4 any other emails. These are the two that on
5 the top of my head, when you ask me the
6 question, I can pull it out and I can see
7 two sources. I will have to see, because he
8 was copied on a number of emails, I'll have
9 to look at whether his position was defined
10 in any of those emails.

11 Q. Do you recall seeing an email from
12 anyone at Arbitrade other than Mr. Braverman
13 raising the question or offering the view
14 that counting the bars would be overkill, in
15 words or in substance?

16 A. So, that statement is here on the
17 email.

18 So that is a statement in the
19 email which you just mentioned, counting
20 bars, I believe is an overkill. There is an
21 email which is sent from, from his iPhone
22 that says Steve Braverman's email ID.

23 Q. Right. So my question was apart
24 from that email, do you recall or do you
25 know whether you saw any other emails in

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2 which anyone from Arbitrade expressed the
3 view in words or substance that counting the
4 bars would be overkill?

5 A. The term counting the bars would
6 be overkill came in that email from Steve
7 Braverman. That's where the statement, yes,
8 the statement is on his email. No one else
9 has mentioned in their emails anywhere, that
10 it would be an overkill.

11 MR. BRAVERMAN: I'd like to object
12 to one thing. Everybody keeps on
13 saying that I was the Chief Operating
14 Officer of Arbitrade. And that is
15 just, you know, untrue. I was at one
16 point asked to be the chief operating
17 officer of Arbitrade exchange in
18 Bermuda which I accepted and it was
19 never made official and I never
20 officially held that position. There
21 was no exchange --

22 MS. RAPOPORT: Steve.

23 MR. BRAVERMAN: It never came
24 about and it needs to be on the record.
25 Thank you.

1 F. AHMED

2 MS. RAPOPORT: You are not
3 testifying.

4 MS. SUM: You are not testifying.
5 If you want to start pointing facts
6 into the record, then we can certainly
7 put in a number of other documents that
8 we're going to prove your statement to
9 be untrue but I don't know that's the
10 road you want to go down, so let's try
11 avoid those type of objections.

12 MR. KISSANE: I think when you
13 review the transcript you'll see
14 everybody was not saying what you
15 attributed to everybody, but with that
16 said I think we should move on.

17 Q. I ask now if we can turn to page
18 16 of your report and I direct your
19 attention to the last portion appearing
20 before number item 2 where you say, "Denial
21 of the permission to carry out physical
22 verification of the gold is a further red
23 flag and raises a question on the processes
24 that were compromised by defendants
25 actions."

1 F. AHMED

2 Can you tell me who it was that
3 denied permission to carry out physical
4 verification of the gold?

5 A. I'm sorry who was -- so you can
6 see the physical verification that was
7 requested in the email from Bureau Veritas,
8 right. So the email has -- there's an email
9 from Joe Chapman which went to, again,
10 Mr. Braverman. "I have raised your request
11 with the management director of Bureau
12 Veritas. Unfortunately, at this time we are
13 not able to engage with as we are not an
14 accounting firm, a request for verification
15 without physical validation of metals cannot
16 be provided."

17 So clearly, Bureau Veritas refused
18 to do the assignment unless the physical
19 verification of the metals, the physical
20 verification would be conducted.

21 Q. So you refer to the denial of the
22 permission to carry out physical
23 verification of the gold. My question is
24 whether you can tell me who it was that
25 denied that permission?

1 F. AHMED

2 A. So if you see, the email from
3 Mr. Braverman which is the one we were
4 referring to which says, "We have an SKR
5 that has already audited. I really wanted
6 to discuss with you what the options are.
7 The bullion is significant in several
8 security facilities in Dubai. Counting bars
9 I believe is overkill. I guess let's speak
10 about it when we meet."

11 So clearly was, you know, in that
12 email, saying that it is an overkill not to
13 perform the physical verification.

14 Q. If you can answer this question,
15 the same question, I'm asking if you're able
16 to answer it as a yes or no answer, and if
17 you can't, then let me know that.

18 So I'm asking you again, are you
19 able to say who it was that denied
20 permission to carry out physical
21 verification of the gold as referred to at
22 page 16 of your report?

23 MS. SUM: Objection, asked and
24 answered. You can answer, Mr. Ahmed.

25 Q. The question is whether you can

1 F. AHMED

2 answer that yes or no, whether you are able
3 to say who it was?

4 A. So the denial of the permission to
5 carry out the physical verification --

6 Q. You can't answer the question yes
7 or no; is that correct?

8 A. No, let me answer your question.
9 So I think you're asking --

10 Q. The question was, let me clarify
11 my question and then you can determine if
12 you're answering it.

13 My question was whether you're
14 able to state as a yes or no in answer to
15 the question of who denied the permission to
16 carry out physical verification of the gold
17 as referred to at page 16 of your report?
18 Either yes you can answer that as a yes or
19 no question or you can't. That's all I'm
20 asking.

21 A. So all I can say is that the email
22 from Mr. Braverman which says, "Counting
23 bars I believe is an overkill" and then the
24 chain of email goes up where Joe Chapman
25 from Bureau Veritas has declined the

1 F. AHMED

2 engagement. This is addressed to -- you
3 know, this particular email declining the
4 assignment saying without physical
5 validation, you know, their request for
6 verification cannot be provided.

7 That's the email. Now whether
8 anyone else denied, you know, denied the
9 permission et cetera, I'm not aware.

10 So what I have seen is this email
11 which says, look, it's not possible for you
12 to conduct or it's an overkill to count the
13 bars and on the back of that, then the
14 Bureau Veritas has said that we would not
15 proceed with this engagement.

16 MR. KISSANE: All right, I'm going
17 to move to strike the response and note
18 for the record I believe the answer
19 will confirm that the witness was not
20 able to answer the question yes or no.

21 THE WITNESS: I did answer the
22 question, Tom.

23 MR. KISSANE: There is no point in
24 arguing. If I bring a motion to
25 strike, everyone will make arguments on

1 F. AHMED

2 the record. I'm not looking to get
3 engaged in an argument with you over
4 it. I don't think it will be
5 productive to discuss it further. But
6 if you have something that you think is
7 responsive to my question, I'm not
8 going to stop you from saying it, but I
9 prefer to avoid redundancy.

10 A. But just to clarify, not argue,
11 what you are saying, you're asking me who
12 denied the permission, right. I --

13 Q. I'm sorry. My actual question is
14 whether you could say yes or no to the
15 question of whether you could identify that
16 person.

17 So it's a very narrow question.
18 It didn't get to who that person was. It
19 was just whether you can identify the person
20 yes or no, and you gave an extended answer
21 which I think reflects --

22 A. Yes, because Tom, it cannot be a
23 yes or a no. What I'm saying is there is an
24 email -- you can't stop me from answering.
25 Let me answer.

1 F. AHMED

2 MS. SUM: I'm going to just
3 interject here. I appreciate both what
4 people have to say what they said. I
5 think to make the most of the time that
6 we have available, we really should
7 just proceed with the next question.

8 Q. Mr. Ahmed, I'm happy to leave it
9 where it stands. I think our positions are
10 both on the record.

11 A. Yes, that's fine.

12 Q. You nowhere in your report make an
13 affirmative contention that it was Mr. Hogg
14 who denied permission to carry out physical
15 verification of the gold, do you?

16 A. I'm sorry, can you show me where
17 in the report I have written that?

18 Q. Well, my question was that you do
19 not anywhere in your report take an
20 affirmative position that it was Mr. Hogg
21 who denied permission to carry out physical
22 verification of the gold.

23 Under the premise of my question
24 there would be nothing in the report.

25 I'm asking you is it not true that

1 F. AHMED

2 you do not take a position in your report
3 that it was Mr. Hogg who denied permission
4 to carry out the physical verification of
5 the gold?

6 MS. SUM: Objection, form.

7 Tom, can you just ask it in a
8 simple way. I think you're confusing
9 the witness, please.

10 Q. All right, I'll try to be clearer.

11 Do you contend anywhere in your
12 report that it was Mr. Hogg who denied
13 permission to carry out physical
14 verification of the gold?

15 A. I haven't put any names in the
16 report, no. So I'm -- I don't recall its
17 name. I said the denial of the permission,
18 which is on the back of this email from
19 Mr. Braverman was probably a red flag for
20 the defendants.

21 Q. And your answer would be the same
22 as to Mr. Goldberg; right?

23 A. Yes.

24 Q. I'm going to ask if we could go
25 back to page 7 of the report.

1 F. AHMED

2 You say, "Defendants failure to
3 follow the standard procedures and the
4 verification process is further highlighted
5 by the fact that another firm defendants
6 attempted to hire, Bureau Veritas, a company
7 that specializes in inspection and
8 verification services, refused to accept the
9 engagement when it became clear that
10 Arbitrade wanted the firm to issue its
11 opinion without conducting any physical
12 examination of the gold?"

13 A. Yes.

14 Q. Can you identify who it was that
15 attempted to hire Bureau Veritas for that
16 purpose?

17 A. Again, you know, in terms of the
18 inspections, you know, the engagement letter
19 or you're talking about the emails. So the
20 email exchange is with Mr. Steve Braverman
21 from Arbitrade. So that is where the email
22 exchange is between him and Joe Chapman of
23 Bureau Veritas.

24 Q. I'm asking if we can turn to page
25 18 of the report, please. And if you look

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2 at the fourth bullet point, there is some
3 text that ends "there is no document that
4 indicates the compensation or any other
5 benefit Mr. Ronggolawe received after
6 signing the deed of assignment."

7 Do you see that at the bottom of
8 the page?

9 A. Yes.

10 Q. Did you make any attempt to locate
11 documentation indicating the compensation or
12 any other benefit that Mr. Ronggolawe may
13 have received after signing the deed of
14 assignment?

15 A. There is no document, that's what
16 I'm saying. Other than the deed of
17 assignment there is no document which
18 includes compensation or any other benefit
19 received.

20 So again, questioning goes back to
21 my due diligence process. What was the
22 source? How was it procured? What was the
23 compensation given, right. So that due
24 diligence, the first point that I made on
25 page 7, defendant should have conducted a

1 F. AHMED

2 thorough due diligence. And previously I
3 explained what that due diligence, it would
4 require the buyer to actually confirm that
5 the -- how has the gold been procured, so
6 whether any compensation was paid against
7 it. So there is no document other than the
8 deed of assignment. There is nothing else
9 to confirm that.

10 Q. Okay. So I was taking, I was
11 taking your text to mean that you were
12 saying there is no document in the materials
13 that you had reviewed indicating
14 Mr. Ronggolawe's compensation or other
15 benefit.

16 Should I understand what you're
17 now saying to be that you're saying that
18 there is no document in the universe
19 concerning that subject or are you just
20 saying no document that you reviewed?

21 A. How can I say if there is no
22 document in the universe. I mean, this is
23 something what ever has been produced to us,
24 there is no document, right. So whether, if
25 a document has not been disclosed, you know,

1 F. AHMED

2 then I wouldn't have -- I cannot say that.

3 But my question here is that there
4 is no document that indicates any
5 compensation or, you know, like payment
6 invoice or any -- how was this, the gold or
7 this deed of assignment? What was the
8 compensation? What was -- so there's
9 nothing, no document that was produced to
10 us.

11 Q. Having clarified that, my
12 misunderstanding that you're saying no
13 document that you had reviewed concerned
14 that subject, I'm going to repeat my earlier
15 question, which was whether you made any
16 attempt to determine whether there was
17 documentation that may not have been
18 provided to you concerning the subject of
19 any compensation or other benefit received
20 by Mr. Ronggolawe after signing the deed of
21 assignment?

22 A. So my scope of work was clearly on
23 reviewing the transaction and documents, and
24 the documents which have been disclosed on
25 the case, which I received from the SEC. It

1 F. AHMED

2 was not a forensic investigation where I
3 would have gone and investigated on my own
4 to find out if there is a document that
5 existed in the universe. So it's clearly
6 restricted to the transactional documents,
7 and the evidence, the exhibits which were
8 produced to us.

9 Q. Do you know if the SEC had made
10 any efforts to determine whether such
11 document existed?

12 A. That's for the SEC to answer. So
13 clearly we were, you know, we produced the
14 report, we asked for if there is any
15 documents, which, because this is -- if we
16 are not provided, there is no document which
17 we asked for this document, even if we ask
18 for this document, in our records, it is not
19 there. It's not produced. So I'm not
20 aware, and I can't comment on whether it was
21 produced to SEC and not shared with us or,
22 you know, if not shared with SEC at all. So
23 I can't comment on that.

24 MR. KISSANE: I know we broke
25 pretty recently, but I believe I may be

1 F. AHMED

2 done. So I'm going to ask that we just
3 take five minutes so I can review my
4 notes and confirm that.

5 MS. SUM: Okay. Who's up next,
6 since we've got about an hour or so.
7 Dawn?

8 MS. RAPOPORT: I have about two
9 hours at this point now. I have gone
10 through everything, I have about two
11 hours. So I would suggest that Steve
12 and Max, since they said they have a
13 collective about an hour, and I can go
14 another day.

15 MS. SUM: Okay. Mr. Braverman,
16 Mr. Barber, who's up next?

17 MR. BARBER: This is Mr. Barber.
18 You know with the other questions that
19 have been raised I'm going to need a
20 bit more time. I'm going to need at
21 least an hour, an hour and a half.

22 MS. SUM: Someone can start and
23 then we just continue. I mean we have
24 already set aside this time for the
25 expert.

1 F. AHMED

2 MR. BRAVERMAN: Do you want to go,
3 because I have added probably a dozen
4 more questions as well.

5 MR. BARBER: I'll go ahead and
6 turn the floor over to you if you're
7 not opposed to it, Steve.

8 MR. BRAVERMAN: After we get back,
9 five minutes, I'll go.

10 I do have one question to ask,
11 Mr. Kissane. You know, if I need to
12 show the report from the expert, can
13 you guys put it on the screen, because
14 I have absolutely no clue on how to do
15 it.

16 MS. SUM: I mean, for what it's
17 worth, Mr. Ahmed does have a copy of
18 his report in front of him.

19 MR. BRAVERMAN: Okay.

20 MS. SUM: Mr. Braverman, if you're
21 fin, with that. I suspect all of us
22 have a copy. If I'm mistaken about
23 that, then, you know. But you're
24 welcome to point him to whatever page
25 or paragraph, however you would like to

1 F. AHMED

2 guide him.

3 MR. BRAVERMAN: Okay.

4 MR. KISSANE: Can we go off the
5 record then for a second.

6 (Whereupon, an off-the-record
7 discussion was held.)

8 MR. KISSANE: Let's go back on the
9 record before I make any statement.

10 I've confirmed that I'm done with
11 my questions for today.

12 So I will leave it to the
13 discussion that had begun as to who
14 will go next.

15 MR. BRAVERMAN: Okay. I just need
16 about five minutes to get my questions
17 ready. So if we can just take five
18 minutes.

19 MS. SUM: We will reconvene at
20 5:30.

21 MR. BRAVERMAN: Thank you.

22 (Whereupon, a short recess was
23 taken.)

24 EXAMINATION BY

25 MR. BRAVERMAN:

1 F. AHMED

2 Q. Mr. Ahmed, my name is Steve
3 Braverman. So I just want to be clear, that
4 any of these questions I am going to be
5 talking about myself and you. But I just
6 wanted to make it clear that I am a pro se
7 defendant, not an attorney.

8 My first question is, how much
9 time, approximately, did it take to prepare
10 your report in round numbers?

11 A. The total time that I spent total
12 was 75 hours in terms of researching,
13 reviewing the documents, preparation and
14 finalization of the expert report.

15 Q. Seventy-five hours. And you were
16 paid \$1,000 an hour. So you can work
17 backwards from your bill if that helps.

18 A. Yes, that's right. So that's the
19 charge out rate which I've given because SEC
20 is a government entity, we give a discount
21 on the charge out rate to SEC.

22 Q. If I can provide you with some
23 information that you hadn't seen and it was
24 counter to all the information that you had
25 been presented, would you be willing to

1 F. AHMED

2 change your mind as it relates to me?

3 MS. SUM: Objection to form. You
4 can answer.

5 A. You want to show me some documents
6 which were not produced to me?

7 Q. Correct. If I were to show you
8 documents that weren't produced yet by the
9 SEC?

10 A. From a legal perspective I want to
11 ask SEC if that's okay.

12 MS. SUM: I'm sorry.

13 Mr. Braverman can show you documents,
14 whatever exhibits he wants to.

15 Q. I'm just asking theoretical, if I
16 had documents that were not shown to you by
17 the SEC, right, that would change -- would
18 you be willing to change your mind as it
19 relates to me if it shows something that is
20 counter to the information that you were
21 presented?

22 MS. SUM: Objection to the
23 hypothetical.

24 A. Yes. I have to look at it. If
25 you want to show any documents to me, I'm

1 F. AHMED

2 happy to see those documents and then
3 accordingly answer.

4 Q. Okay. In reviewing your report
5 and other related documents, the primary and
6 apparent link to Braverman, his involvement
7 in the dialogue with Bureau Veritas
8 regarding the verification of the gold
9 specifically regarding the counting of the
10 gold bars being overkill and in your report
11 you feel that serves as a specific instance
12 where he is directly associated with the
13 alleged misrepresentation and avoidance of
14 verifying gold to the full extent that
15 industry standards would suggest. Is that
16 correct or is there other specific instances
17 that show Braverman is aiding and abetting?

18 MS. SUM: Objection to form. You
19 can answer.

20 A. Well, if you're asking about the
21 Bureau Veritas, yes, I refer to that
22 particular email of yours, yes, correct.

23 Q. Mr. Ahmed, in your report, you
24 list your professional background and
25 degrees. You state that you are a qualified

1 F. AHMED
2 chartered accountant with 24 years of global
3 experience specializing in financial crime
4 compliance and some money laundering tax
5 advisory and auditing.

6 Would you agree that your formal
7 education and degrees are primary in
8 accounting and financial compliance, not
9 metallurgy, mining or physical gold
10 verification?

11 MS. SUM: Objection, form. You
12 can answer.

13 A. Yes, I'm not a minor, no. But I
14 specialize, you know, your qualification is
15 one thing. But then you -- industry
16 specialization, so I have been specializing
17 in the gold, precious metal sector in terms
18 of compliance, documentation, audits,
19 accounting, transactional documents,
20 reviews, both for refineries and trading
21 companies across the globe.

22 Q. Do you have any degrees in
23 geology, chemistry, engineering, material
24 science which would directly relate to the
25 physical properties and storage of gold?

1 F. AHMED

2 MS. SUM: Objection, form. You
3 can answer.

4 A. So, I'm not a geologist or a
5 chemist from a qualification perspective.
6 But I conduct audits on behalf of the
7 ministry of economy for refineries, gold
8 refineries in UE. I've conducted -- I've
9 mentioned in the addendum to my experience
10 as well in the last one year. I have a
11 number of refineries that we have reviewed
12 as a process. So RJC, the Royal Jewellery
13 Council of London; RTC, Certificate of
14 Practice; COC which is Chain of Custody, UA
15 Good Delivery, Responsible Sourcing
16 Regulations which requires us to validate
17 and review the physical inspection of gold
18 in terms of where it comes, the end-to-end
19 process, from mine to market.

20 So it's my experience in this
21 field conducting these reviews. My
22 qualification is accounting, as I've
23 mentioned in my expert report.

24 Q. Okay. In your report you
25 acknowledge using online sources for

1 F. AHMED

2 research and performed extensive desktop
3 searches and literature review of the
4 information available in the public domain.

5 Would you agree that gathering
6 information from the Internet is an
7 acceptable method for verifying details?

8 A. What is acceptable sources. So
9 for example, the EMN regulations, the Good
10 Delivery regulations these are acceptable
11 sources which we rely on. It's not a Google
12 search or a Wikipedia or something we are
13 looking at. It's relevant websites of the
14 entities involved and acceptable sources.
15 That's what I refer to when we talk about
16 desktop research.

17 Q. How long did it take you to
18 prepare your expert opinion, you said 75
19 hours?

20 A. Yes, total, yes.

21 Q. Do you follow a document process
22 for preparing this expert opinion such as an
23 ISO standard methodology or was this based
24 on your own ad hoc approach?

25 MS. SUM: Objection, form. You

1 F. AHMED

2 can answer.

3 A. Yes, so we follow the process. We
4 follow the -- when we look at the, you know,
5 the responsible sourcing or the gold sector
6 refinery audits, ISAE 3000 auditing
7 standards. As an accountant we follow the
8 International Accounting Standards, the
9 verification process, the physical telemetry
10 requirements which are in the International
11 Financial Reporting Standards and the
12 International Auditing Standards. So with
13 we follow these and I have mentioned some of
14 these in my report as well which are
15 relevant to the matter.

16 Q. Did you ever personally perform
17 the physical verification of gold?

18 A. Sorry?

19 Q. Have you personally ever performed
20 the physical verification of gold?

21 A. Yes. I'm also, if you see my
22 profile, I am acting as the group head of
23 compliance and legal for one of the top UE
24 gold refineries and precious metals. In my
25 capacity we actually engage auditors, both

1 F. AHMED
2 financial auditors as well as the specific
3 industry, gold industry, you know
4 accreditation auditors. So I have practic
5 auditors from RJV as I mentioned during
6 counsel for the COP, Certificate of
7 Practice, for the Chain of Custody. I've
8 engaged with auditors who provided
9 accreditation for UE Good Delivery and I'm
10 also myself an auditor, a UA Good Delivery
11 auditor which requires you to have these
12 skills in terms of physical verification.
13 And we've conducted reviews. I'm also a
14 trainer with the DMCC to the Dubai Multi
15 Commodities Center, DMCC which is where the
16 gold policy team presides. And I train on
17 precious metals sector when it comes to mine
18 to market in terms of refining, in terms of
19 identification of gold. We have conducted
20 more than, you know, I can't recall off the
21 top of my head, but 100 plus inspections for
22 the Ministry of Economy for precious metal
23 sector. I have clients which are trading
24 companies in the UE as well as globally in
25 the precious metal sector.

1 F. AHMED

2 Q. Wow, Arbitrade should have hired
3 you to do the audit.

4 In your report you suggest that
5 storing 395 metric tons of gold would be
6 difficult due to space constraints.

7 Are you familiar with how gold is
8 physically stacked in a vault?

9 A. Yes, I am.

10 Q. How high can gold bars be safely
11 stacked?

12 A. Say again?

13 Q. How high can gold bars be safely
14 stacked?

15 A. If you look at the 395 metric ton,
16 so you're talking about 395,000-kilo bars to
17 be stacked. So either you can have kilo bar
18 you can have the large bars, you know, the
19 25KG bars, right. What we've seen in the
20 documentation, these are kilo bars. So
21 there would be a physical count of
22 395,000-kilo bars that would have been
23 stacked in a single vault, in a particular
24 vault.

25 Q. Is there an internationally

1 F. AHMED

2 recognized stacking limit for gold in vaults
3 that you're aware of?

4 A. In terms of stacking limit, no. I
5 haven't seen any, you know, stacking limit.

6 But you know, when you're talking
7 about how high, just think about it,
8 395,000-kilo bars. If your question is can
9 it be stacked one on top of the other, no.
10 You can put it in lots, you know, 100, 200,
11 what you've seen in refineries, vaults and
12 trading vaults or trading companies or where
13 the physical inventory of gold vault is kept,
14 these are stacked. You know, you can have
15 100 bars, you can have it in 50 bars,
16 whichever way it is stacked.

17 But it's a large volume. What I
18 mentioned in my report is that that amount
19 of gold, that quantity of gold or 395 metric
20 tons which is equivalent to 87,000 plus
21 pounds of gold which would equate to
22 395,000-kilo bars would not be -- you know,
23 it's not practical to store it in one
24 storage area. In Dubai, in my experience
25 in terms of breaks or G4S or Transcard or

1 F. AHMED

2 any of those logistic companies, they don't
3 have a single vault which will store
4 395,000-kilo bars.

5 Q. In any of the documentation that
6 you saw that the SEC provided, did it say
7 that SION or Arbitrade stored all of the
8 gold in one particular vault, all 395 metric
9 tons?

10 A. Well, I mean, if you see the SKR
11 which was produced, it says in one location.
12 But I understand that, I've also gone
13 through, you know, the answers subsequently
14 that apparently now it has been told that it
15 was stored in different locations, different
16 places, right.

17 But if you look at it, you know,
18 it says in Dubai, in a single container.

19 Q. Okay.

20 So since you brought it up, what
21 is an SKR?

22 A. Well, in my experience it's the
23 Safe Keeping Receipt. I haven't come across
24 a document like this. SKR, I mean, this
25 document is basically it -- the document

1 F. AHMED

2 which was given to us, the G4S, SKR is
3 stating that, you know, they're confirming
4 that they are holding a document, that's it.
5 They are vaulting a piece of paper.

6 Q. Okay. Okay.

7 A. Let me finish. So it is not
8 confirming that it holds gold. If you look
9 at the agreement, the contract of G4S which
10 clearly states that they are only
11 confirming, right, in the form of a Safe
12 Keeping Receipt that they are holding a
13 piece of paper which is the SKR. G4S
14 agreement doesn't talk about holding gold
15 anywhere. And that is why that particular
16 agreement --

17 Q. Thank you.

18 A. The cost is 1500 per month for
19 storing a piece of paper. That's not the
20 cost for vaulting 395 metric tons of gold.
21 Again if you see the liability limit, their
22 vault is lira 2 million, right, which is
23 they liability they put in case they lose
24 that piece of paper. That's all that G4S is
25 confirming on SKR specifically.

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2 Q. Okay. Okay. What does a SKR
3 represent?

4 A. It's a Safe Keeping Receipt,
5 according to the definition.

6 Q. Of what?

7 A. It's a Safe Keeping Receipt of
8 that particular document.

9 Q. It's a document that represents a
10 document?

11 A. Yes.

12 MS. SUM: Wait, let him -- wait,
13 the two of you are talking over each
14 other. So Mr. Braverman, please let
15 him finish before you start a new
16 question.

17 A. If I can direct you to the G4S
18 agreement, the agreement, and you see the
19 schedule, one of their agreement from G4S,
20 someone can pull it up or I can just talk.

21 So if you see the services in
22 clause two, point number B of schedule 1 of
23 G4S agreement, G4S will provide vaulting
24 services for the customer where a sensitive
25 document will be stored in the G4S cash

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2 receiving centers vault. It doesn't say
3 storing gold. It's basically that they will
4 store a sensitive document, right. The
5 document will be seen by the customer prior
6 to hand over to G4S staff, G4S will ensure
7 that the document is never to be accessed by
8 anyone including G4S staff unless otherwise
9 instructed by the customer, nor G4S will not
10 ensure what the document represents in
11 value, in anyway or be liable for what the
12 document represents in value in anyway. So
13 clearly the agreement, the schedule 1
14 clearly states that whatever is mentioned in
15 that document, they are not confirming that.
16 G4S will also provide when required delivery
17 service of the document to the customer
18 provided the following information is shared
19 48 hours in advance.

20 Now, this is clearly the schedule
21 1 of the agreement with G4S. Then
22 subsequently G4S has been requested to
23 confirm with the Safe Keeping Receipt, that
24 yes, they are keeping this particular
25 document. They have no where mentioned that

1 F. AHMED

2 they have validated anything or that they
3 are holding gold. They are only holding a
4 sensitive document.

5 Q. But what does the sensitive
6 document represent? What does an SKR
7 represent?

8 A. That's what I'm saying the SKR.

9 Q. The SKR that they're holding, what
10 does it represent?

11 A. It is said to contain. So if you
12 look at the SKR -- let me, the SKR, if you
13 see the Safe Keeping Receipt, which is
14 issued, the Exhibit 9, and if you see what
15 it says is "We G4S Cash Services, LLC
16 herewith irrevocably confirm that we look
17 into our safety being the depositor as goods
18 as stated said to contain and secure
19 conditions with seal number so and so."

20 So that's what it is. It's purely
21 saying you are telling me that there is gold
22 and I am just confirming that on an SKR. So
23 the SKR does not, it is not a reflection of,
24 you know, that yes, it confirms that there
25 is gold. It's a confirmation of what the

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2 person, the custodian or whoever has
3 requested has said that this document.

4 It's like an envelope. I put my
5 will in that envelope or I could put a blank
6 piece of paper in the envelope, I seal it, I
7 give it to the vaulting services company and
8 I say here is my will. It's said to contain
9 my will. Although it's just a blank piece
10 of paper. They are not validating that,
11 they are not insuring that. All they're
12 saying is I'm issuing you a Safe Keeping
13 Receipt saying that yes you have kept a
14 document which is said to contain this
15 information.

16 Q. Okay.

17 And what is G4S specifically?

18 A. So it's a logistics and vaulting
19 company. So G4S, there are two entities,
20 G4S Cash Services and G4S International,
21 right, and G4S has been taken over by Brinks
22 now. So back in 2018 it was G4S Cash and
23 G4S International.

24 Q. Right.

25 And do you think that G4S would

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2 create an SKR without, you know, full
3 authority and acknowledgment of the
4 existence and ownership of the gold?

5 A. Yes, because it is not a practice.
6 You know, this is in my experience working
7 with -- as I mentioned, we have reviewed and
8 audited 12 refineries in the UE. I'm also
9 acting as the overhead for compliance and
10 for some precious metals. We work with a
11 number of gold trading companies. I haven't
12 come across SKRs in my experience as a
13 validation or G4S or Brinks or Transcard or
14 any of these companies. They don't issue
15 these documents.

16 Now, clearly even if I have to
17 rely on this document, what it says is that
18 it is at the request of the customer, I'm
19 producing a document which says yes, you
20 have kept a document which is said to
21 contain the asset.

22 Q. Right, but when G4S was asked to
23 create this SKR by SION, weren't there tons
24 of documentation sent to both G4S and
25 anybody involved in the management and

1 F. AHMED

2 Arbitrade to show that the gold was real and
3 that the SKR represented all of that gold?

4 MS. SUM: Objection, form. You
5 can answer.

6 A. So the SKR doesn't represent the
7 existence of gold. The physical existence
8 of gold is represented by way of physical
9 verification report. The invert, so the
10 transport documents. So whenever gold is
11 handed over to G4S or any logistics company,
12 there is the delivery note. There is the
13 shipment, there are insurance documents.
14 There is in and out documents into the
15 vaults, and based on that periodically if it
16 is stored for a period of time, then
17 periodically at a minimum, on an annual
18 basis, a physical verification is done,
19 because that is how it would be reflected on
20 the company, whoever owns that gold on that
21 balance sheet, as their asset. None of
22 these documents have been produced.

23 So SKR alone does not actually
24 reflect or confirm the existence of gold.

25 Q. Okay. So if that is the case,

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2 let's just, you know, let's just go into a
3 different direction for a second.

4 The executives, owners, control
5 persons, board members of Arbitrade who
6 received all of the documentation from SION,
7 from G4S, from BDO, from Elliot Davis,
8 right, I would argue that they, including
9 myself, were layman when it came to the
10 world of gold and how things were supposed
11 to go. At the same time I would argue that
12 our gold partner, Mr. Barber and SION, is an
13 expert and he's got a serious background and
14 I would also say, you know, that in your
15 testimony before you said that nobody did
16 any due diligence on Max, I would argue that
17 there was a ton of due diligence done. But
18 my question is with all the due diligence
19 that was done and all the documentation that
20 was received and all of the people that were
21 hired meaning BDO and Elliot Davis and
22 Bureau Veritas, none of them brought up any
23 red flags that you have brought up to us.
24 So that is the case. If they didn't bring
25 up the red flags to us, how would we as

1 F. AHMED

2 laymen know that there was any issues at
3 all, if any, with regard to this particular
4 gold and need this particular SKR?

5 MS. SUM: Objection. Wait, wait,
6 wait, wait. Objection, form. Assumes
7 facts not in evidence.
8 Mischaracterizes the evidence. There
9 is multiple objections I'll leave it at
10 that.

11 MR. BRAVERMAN: There is a ton of
12 evidence.

13 MS. SUM: To the extent that
14 you're able to answer the question,
15 Mr. Ahmed, you may attempt to do so.

16 A. Yes. So I won't comment on the
17 ton of evidence that you mentioned, so leave
18 that aside.

19 But, you know, there are a few
20 questions, you know, that you've raised. So
21 let me answer one by one.

22 Number 1, is you don't need to be
23 an expert to count your assets.

24 So let's assume as an example, if
25 I'm buying cars, I need to see or if I have

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2 stock in my inventory, it could be anything,
3 you don't need to be an expert. A layman if
4 I'm buying something I would want to
5 physically see it.

6 If I'm taking over a company or
7 I'm engaging with a company that is selling
8 me mobile phones, I would want a stock
9 record. So the due diligence is one is the
10 regulatory requirement but second is common
11 sense, right. I wouldn't rely on a piece of
12 paper which categorically says said to
13 contain and something SKR which is, you
14 know, vaulted with a G4S company which is a
15 logistics company and I would believe that
16 yes, we gave 395 metric tons. If it was me,
17 you know, if you ask me personally, as an
18 expert, as a common man I would jump on a
19 plane and go physically verify the gold
20 myself.

21 So I don't accept the fact that
22 everybody at Arbitrade, including yourself
23 was a layman and would not know the
24 procedure. So if you are buying, if you are
25 buying grossly, we count it, we check it.

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2 So here we are talking about basic check
3 that needed to be performed and not relying
4 on just an SKR, number 1.

5 Number 2, you've talked about the
6 two audit firms, the Elliot Davis and BDO.
7 Again, please look at the scope of work.
8 It's an agreed upon procedure. Were they
9 asked to physically verify the gold? No.
10 They were asked only to validate the
11 existence of a document. And that's what
12 they have done, and they have mentioned it.
13 And they have also put the limitations in
14 their report that we were not asked to do
15 anything over and above this, so we are not
16 confirming anything else. But just the
17 existence of a piece of paper.

18 And then we come to about physical
19 verification. How people would have known,
20 this is where the third form which was
21 reached out, Bureau Veritas, they did
22 mention and they refused to accept the
23 engagement, they declined the engagement,
24 because, you know, they clearly said without
25 a physical verification, the validation, we

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2 cannot proceed. So there were enough red
3 flags for a common man to actually identify
4 that, yes, something needs to be done and we
5 can't just rely on a piece of paper for gold
6 worth \$10 billion.

7 MR. BRAVERMAN: Tom, can you X out
8 of sharing. I'm going to try and share
9 some documents. Hopefully I can make
10 it happen.

11 I'm going to have to just reserve
12 my rights and the next time we meet,
13 I'll come back with the documents
14 ready, all right.

15 So I'm done for now.

16 (Whereupon, an off-the-record
17 discussion was held.)

18 Q. Are you seeing what I just sent?

19 A. Yes.

20 Q. Mr. Ahmed, can you see that on
21 your screen?

22 A. Yes, I can, yes.

23 Q. So this is an email on
24 10/26/2018 from me to Bureau Veritas, to
25 Joshua Husvar -- well, inspector@.com, same,

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2 they're a division of Bureau Veritas, he's
3 of the managers there. This, I believe, is
4 after your email that you mentioned earlier
5 in your testimony about when Bureau Veritas,
6 when Arbitrade and myself were speaking to
7 Bureau Veritas in order to do an audit;
8 correct?

9 MS. SUM: Objection. Two things.
10 First, this document does not look the
11 native or original email. It looks
12 like it's a cut and paste. And I don't
13 see that there's a Bates stamp on it.
14 But even accepting that, I object to
15 the form of the question. You're
16 testifying about the contents of it.
17 If you want to ask him a question, ask
18 him a question about it.

19 MR. BRAVERMAN: Yes, I don't have
20 the Bates stamp, the one in front of me
21 but I can get it to you afterwards.

22 Q. But this email is from me to
23 Joshua at Bureau Veritas saying "Josh, I'd
24 like introduce you to our CEO Len Schutzman
25 and my associate James Goldberg. They will

1 F. AHMED

2 be handling the relationship moving forward.

3 Thanks for your help. I'm always available

4 if you need my assistance as well."

5 Do you agree that that is what it

6 says it is, that I passed the buck to the

7 CEO of the company and to my associate James

8 Goldberg on who is going to handle the

9 relationship?

10 MS. SUM: Objection to form.

11 A. Yes, but if you see this is dated

12 October 26, right?

13 Q. Yes.

14 A. And your email which talks about

15 counting bars as being an overkill is dated

16 October 23, so.

17 Q. So three days later I introduced

18 them to the other people, because -- did you

19 actually ever see this email? Do you

20 recognize this email?

21 A. Yes, yes.

22 Q. They did show it to you?

23 A. No, this document which you are,

24 you know, which you just sent it on, hold on

25 a second -- this is, I'm talking about the

1 F. AHMED

2 email from Bureau Veritas, the October 23.

3 This email I don't recall.

4 Q. You don't recall. So this was
5 left out in the documents that were sent to
6 you by the SEC? You didn't see this?

7 MS. SUM: Objection to form.

8 A. I would have to check the emails
9 again, because, yes.

10 Q. So here is --

11 MS. SUM: Let him finish,
12 Mr. Braverman. Let him finish. And
13 you're scrolling back and forth. It's
14 hard to.

15 MR. BRAVERMAN: Okay.

16 A. You're asking me about this email.
17 I don't recall. But I'd have to check all
18 the emails. The ones that I'm referring to
19 were the ones where you mentioned to Bureau
20 Veritas that it is overkill. And after that
21 you come back, you and Chapman, there is a
22 chain of emails where he comes back and says
23 that particular email is addressed to you on
24 October 30, where he is saying that your
25 request for verification without physical

1 F. AHMED

2 validation of metals cannot be provided. So
3 that's not going to anybody else who you
4 mentioned here in your email, neither to Len
5 Schutzman, nor to James Goldberg, it's going
6 to you.

7 Q. Understood. Understood.

8 But you're saying you never saw
9 this particular email?

10 MS. SUM: Objection, asked and
11 answered.

12 Q. Okay. So I'll scroll down to the
13 next exhibit, which is a text message from
14 January 7, 2019. It is from me to Joe
15 Chapman over at Bureau Veritas and it says,
16 "Joe, do you have a moment to speak? It
17 appears we are ready to do a full audit?"
18 And he responds, "Give me a minute. In a
19 meeting."

20 And then I sent him, "The
21 Arbitrade conference line, tomorrow
22 1:00 p.m. will send an email as well."

23 Did you see this document? Did
24 the SEC send you this document at any point
25 in time, have you seen it, do you recognize

1 F. AHMED

2 it?

3 MS. SUM: Objection to the form.

4 Wait, please. Objection to form.

5 Mr. Braverman, can you scroll down, I

6 don't see where the Bates number is

7 again for this.

8 MR. BRAVERMAN: Once again, I

9 don't think I have a Bates number on

10 any of this, but I will get it to you

11 right afterwards.

12 MS. SUM: Okay. Just objection to

13 you generally testifying. But

14 Mr. Ahmed, you can answer the question.

15 A. Yes, these text messages. No, I

16 don't recall seeing these text messages.

17 Q. Okay.

18 Here is another email that's

19 confirming that we're having a call with

20 Bureau Veritas on January 8, 2019. Did you

21 see this email?

22 MS. SUM: Objection. Same one

23 with respect to lack of Bates number.

24 A. You have to give me the reference

25 or the exhibit numbers for me to actually

1 F. AHMED

2 look into the exhibits to see this email.

3 Q. Understood, I will get them for
4 you.

5 A. Yes, please if you can, then I'll
6 be able to.

7 Q. This was also a highlight from an
8 email sent by Joe Chapman that BV is to
9 witness the check weighing of an agreed
10 percentage of bars. And this particular
11 document dated February 6, 2019 from Bureau
12 Veritas. Did you see this document?

13 MS. SUM: Same objection as to the
14 document, lacking a Bates and then at
15 least allow him to see the balance of
16 the document before he answers the
17 question.

18 MR. BRAVERMAN: I'll explain what
19 the document is.

20 Q. This is actually a scope of work
21 contract with Bureau Veritas with Arbitrade
22 to go and audit at lease a percentage of the
23 gold.

24 Has this document ever been shown
25 to you by the SEC?

1 F. AHMED

2 MS. SUM: Same objection. You
3 have to let the witness look at the
4 document, Mr. Braverman. That's all.
5 Just scroll through the balance of it,
6 please.

7 A. I do recall, but I need the
8 exhibit numbers or you know, the details to
9 have a look at this.

10 Q. So, but this is a document from
11 February, I believe, 16. So I'll get you
12 the number, but you do recall seeing it or
13 you don't recall seeing it?

14 A. This is -- this is going too fast,
15 sorry. It's a proposal. It's a proposal
16 from Bureau Veritas.

17 Q. Right, on February 16 of 2019. So
18 three plus months after that email that the
19 SEC said that --

20 A. I'm sorry, if I can get the
21 exhibit numbers, I will get --

22 Q. Understood, I will get them for
23 you?

24 MS. SUM: Okay, same objection,
25 regarding this document. If you want

1 F. AHMED

2 the witness to look at it, please
3 scroll a little bit slower so that he
4 can attempt to answer your question.

5 MR. BRAVERMAN: Okay, well he's
6 answered. He's saying he doesn't know
7 until he sees the exhibit numbers so
8 I'll have to get the exhibit number.

9 THE WITNESS: Yes, yes.

10 MR. BRAVERMAN: All right, then I
11 have no further questions. I will get
12 you the exhibit numbers and I guess
13 next time we get on call you can
14 respond?

15 MS. SUM: Are you concluding your
16 questioning or are you saying that
17 you're going to continue questioning.

18 MR. BRAVERMAN: I'm concluding my
19 questioning, but I reserve my rights to
20 get an answer on the last few questions
21 about these documents when I show the
22 Bates numbers.

23 MS. SUM: You're not concluding
24 your question, Mr. Braverman. So
25 you're leaving it open so you're going

1 F. AHMED

2 to resume when we start the next time.

3 MR. BRAVERMAN: Okay, perfect.

4 Thank you.

5 MS. SUM: I think at this point we
6 could go off the record.

7 (Whereupon, an off-the-record
8 discussion was held.)

9 MS. SUM: Mr. Ahmed, we're done
10 with you for the purposes of the
11 deposition. I think we need to sort
12 out a date. I can separately email you
13 once I get everyone to agree on some
14 options for you.

15 (Continued on next page.)

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1 F. AHMED

2 THE WITNESS: Sure. Thank you
3 very much.

4 THE COURT REPORTER: Would you
5 like a copy of the transcript?

6 MS. SUM: The SEC will order. We
7 are going to order a rough, but I need
8 my paralegal to email you.

9 (Whereupon, at 6:15 p.m., the
10 Examination of this witness was
11 concluded.)

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F. AHMED
D E C L A R A T I O N

I hereby certify that having been first
duly sworn to testify to the truth, I gave
the above testimony.

I FURTHER CERTIFY that the foregoing
transcript is a true and correct transcript
of the testimony given by me at the time and
place specified hereinbefore.

FAISAL AHMED

Subscribed and sworn to before me
this ____ day of _____ 20__.

NOTARY PUBLIC

1	F. AHMED		
2	I N D E X		
3			
4	EXAMINATION BY		PAGE
5	MR. KISSANE		3
	MR. BRAVERMAN		171
6	E X H I B I T S		
7			
8	AHMED EXHIBITS		
9			
10	EXHIBIT	EXHIBIT	
11	LETTER	DESCRIPTION	PAGE
12			
13	1	Expert report	8
14	2	Arbitrade bylaws dated June 26, 2018	16
15			
	3	Elliot Davis report	98
16			
	4	Agreement between SION 23. and Arbitrade	
17			
18	5	Memorandum of understanding between SION and Arbitrade	124
19			
20			
21			
22			
23			
24			
25			

1 F. AHMED
2 C E R T I F I C A T E
3

4 STATE OF NEW YORK)
: SS.:
5 COUNTY OF QUEENS)
6

7 I, RIVKA TROP, a Notary Public for and
8 within the State of New York, do hereby
9 certify:

10 That the witness whose examination is
11 hereinbefore set forth was duly sworn and
12 that such examination is a true record of
13 the testimony given by that witness.

14 I further certify that I am not related
15 to any of the parties to this action by
16 blood or by marriage and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 12th day of March, 2025.
20
21
22

RIVKA TROP

23 RIVKA TROP
24
25

Magna Key Contacts



Schedule a Deposition:

Scheduling@MagnaLS.com | 866-624-6221

Order a Transcript:

CustomerService@MagnaLS.com | 866-624-6221

General Billing Inquiries:

ARTeam@MagnaLS.com | 866-624-6221

Scheduling Operations Manager:

Patricia Gondor (E: PGondor@MagnaLS.com | C: 215-221-9566)

Customer Care:

Cari Hartley (E: CHartley@MagnaLS.com | C: 843-814-0841)

Director of Production Services:

Ron Hickman (E: RHickman@MagnaLS.com | C: 215-982-0810)

National Director of Discovery Support Services:

Carmella Mazza (E: CMazza@MagnaLS.com | C: 856-495-1920)

Billing Manager:

Maria Capetola (E: MCapetola@MagnaLS.com | C: 215-292-9603)

Director of Sales Operations:

Kristina Moukina (E: KMoukina@MagnaLS.com | C: 215-796-5028)

A			
abetting	accurate	117:13	agreements
173:17	40:22	adviser	121:19
able	acknowledge	32:14	ahead
13:14 17:3 57:12	175:25	advisors	4:3,4 35:22 44:8
59:20,25 61:3 77:5	acknowledgment	150:15	169:5
98:20 99:10 121:14	187:3	advisory	Ahmed
131:14 156:13	acquiring	9:24 174:5	1:15 3:1,10,14 4:1
157:15,19 158:2,14	75:4	affairs	5:1,3,22 6:1,19 7:1
159:20 190:14	acquisition	19:7 30:18,23	7:18 8:1,7 9:1 10:1
199:6	95:13 137:2,3 138:19	affiliation	11:1 12:1 13:1 14:1
absolutely	act	10:14	15:1 16:1,2 17:1
58:17 101:15 131:9	14:17,19 33:19	affirm	18:1 19:1 20:1 21:1
134:13 169:14	acting	104:4	22:1 23:1 24:1 25:1
accept	131:3 177:22 187:9	affirmative	26:1 27:1 28:1 29:1
81:16 163:8 191:21	action	62:25 118:9 161:13	30:1,15 31:1 32:1
192:22	83:20,22 85:9 136:11	161:20	33:1 34:1 35:1 36:1
acceptable	206:15	affording	36:8 37:1 38:1 39:1
176:7,8,10,14	actions	59:15	40:1 41:1,11 42:1
accepted	74:25 137:7 155:25	against-	42:12 43:1 44:1
71:8 75:16 154:18	activities	1:5	45:1,3 46:1 47:1
accepting	18:19	ago	48:1,3 49:1 50:1
41:24 136:22 194:14	actual	14:3 136:22	51:1 52:1 53:1 54:1
accessed	44:5 160:13	agree	55:1 56:1 57:1 58:1
184:7	ad	62:5 104:20 174:6	59:1,20,25 60:1
accountant	176:24	176:5 195:5 202:13	61:1 62:1 63:1 64:1
121:22 174:2 177:7	added	agreed	65:1 66:1 67:1 68:1
accountant's	169:3	97:17,20,23 98:25	69:1 70:1 71:1 72:1
99:17	addendum	105:6 110:11,13	73:1 74:1 75:1 76:1
accountants	175:9	111:17,23 192:8	77:1 78:1 79:1 80:1
33:4 105:10 111:22	addition	199:9	81:1 82:1 83:1 84:1
114:8	149:23	agreement	85:1 86:1 87:1 88:1
accounting	additional	43:4 62:4 66:3 67:13	89:1 90:1 91:1 92:1
12:23 71:21 72:16	5:14 105:19 142:11	90:4 92:21 101:20	93:1 94:1 95:1 96:1
76:24 94:17,19	address	102:10 103:5,12,14	97:1 98:1,11 99:1
95:21,24 97:9,14	99:20 119:22	103:15,21 104:4,5,8	100:1 101:1 102:1
99:25 100:20,22	addressed	104:9,13,18 105:22	103:1 104:1 105:1
111:25 113:24	119:5,7,8,18,20	105:23 106:4,13,19	106:1 107:1 108:1
132:16,22 133:8	128:14 148:15,17	106:21,23,24	109:1 110:1 111:1
134:9,15 135:6,16	159:2 196:23	107:17,21,23 108:5	112:1 113:1 114:1
135:17 147:13	adhered	108:11,14 109:4,6,7	115:1 116:1 117:1
156:14 174:8,19	75:15	109:16,17,18,20	118:1 119:1 120:1
175:22 177:8	advance	112:4,5,24 113:7	121:1 122:1 123:1,9
accreditation	118:17 184:19	123:8,19 124:9	124:1,15 125:1
178:4,9	advise	138:12 182:9,14,16	126:1 127:1,9,12
	114:18	183:18,18,19,23	128:1,2 129:1 130:1
	advised	184:13,21 205:16	130:17 131:1,15

132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1,24 158:1 159:1 160:1 161:1,8 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 169:17 170:1 171:1 171:2 172:1 173:1 173:23 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 190:15 191:1 192:1 193:1,20 194:1 195:1 196:1 197:1 198:1,14 199:1 200:1 201:1 202:1,9 203:1 204:1,15 205:1,8 206:1 Ahmed's 4:9 53:3 146:15 aiding 173:17 air 131:13 airway 77:24 92:6 ALEXANDER 2:7 Alice 2:6 6:10 40:24 74:5 all-in-one 150:25 allegation 37:5 38:18,21 39:14 39:25 40:12,21 41:8 41:18,18 42:6,11	71:9 72:2 allegations 42:21,22 144:6 alleged 31:3 34:23 38:17 39:9 42:18 43:3 46:19 120:18 173:13 allow 20:24 110:23 134:19 135:16 199:15 allowed 132:17,23 133:9 134:10,16 135:7 allowing 141:20 American 105:9 111:21 AML 13:8 31:13 32:2,20 33:18 44:24 66:4 77:17 80:21 81:19 82:12 83:7,18,19 84:24 85:6,11,12,12 85:18,22 86:18 88:12 89:22 93:10 93:19,21,25 AMLs 122:11 amount 180:18 ANNA 2:16 announces 46:9 announcing 46:8 annual 78:21 188:17 answer 3:23 5:24 20:8,10,24 21:4,5 30:10,15 36:8,10 38:24,24,25 40:4,25 41:4,11 42:12,15 43:19 45:3 45:5,6 47:5 48:2,4	49:14 50:23 51:11 51:25 52:4,5,9 53:4 53:25 54:23 55:9,13 55:18,20 56:10,11 56:16 59:20,24 60:2 60:14 61:3 90:13 100:8 110:19,22,24 111:2,17 116:5 121:15 122:25 123:15 126:20,22 127:10 129:17 130:19 131:2,13 134:22,25 139:7,11 139:12,14,16 143:6 148:20 157:14,16 157:16,24 158:2,6,8 158:14,18 159:18 159:20,21 160:20 160:25 162:21 167:12 172:4 173:3 173:19 174:12 175:3 177:2 188:5 190:14,21 198:14 201:4,20 answered 64:4 111:11,11 135:22,22 139:5 157:24 197:11 201:6 answering 8:18 49:11 57:10 110:17 127:5 128:10,23 131:15 152:13 158:12 160:24 answers 5:25 61:8 65:18 74:3 126:23 136:13 181:13 199:16 Anti-Bribery 14:17 anti-crisis 11:6 anti-money 13:6,7 31:19 32:23 33:12 66:4 78:18	79:22 83:7,25 86:23 87:10 88:5,8 122:2 anybody 89:19 94:22 187:25 197:3 anyway 184:11,12 apart 9:9,19,20 10:6,7 67:14 94:9 95:14 96:8 119:13 121:5 136:13 137:21 141:2 142:14 153:23 apologies 4:5 143:4 apparent 173:6 apparently 56:23 150:8 181:14 appear 4:9 appeared 11:16 appearing 7:3 155:19 appears 145:17,18 197:17 applicable 86:10,12 114:19 115:15 applied 95:12 116:21 applies 83:9 apply 34:13 117:8 applying 71:13 73:7 appointed 112:16 116:4 appointing 94:19,20 appointment 23:24 72:15 94:16 appreciate
--	--	--	---

161:3	126:3,14 132:20	60:7 116:18 117:4	60:13
approach	133:20 134:11	168:24 190:18	asserting
97:8,10 148:13	136:15 137:5	asked	40:14 58:4
176:24	138:13 140:8	22:16 63:11 65:15	assertions
approached	147:19 148:18	74:2,24 75:12 97:22	64:15
32:6	149:17,22 150:25	97:25 109:25	asset
appropriate	152:2 153:12 154:2	110:18 111:10	31:6,7 36:20 37:6,18
35:17 123:14	154:14,17 163:10	116:12 117:2	38:2,9,23 39:15
approval	163:21 179:2 181:7	118:13 120:11	40:2,13 41:9 42:7
120:2	188:2 189:5 191:22	125:10 126:11	55:16 76:17 187:21
approved	194:6 197:21	127:10,18 128:6	188:21
119:11 126:15	199:21 205:14,17	129:4,5,10,24 130:7	assets
approximately	205:19	130:11,22 137:10	33:6 190:23
171:9	Arbitrade's	138:6 142:16	assigned
Arbitrade	89:10 95:17 150:20	148:16 152:3	25:20 101:21 102:11
1:7 15:23,25 16:5,7	area	154:16 157:23	103:2 105:2,3
16:17,20,23 18:3	21:13 26:11 28:18	167:14,17 187:22	107:12 108:5,12,16
19:25 22:3,12,21	43:3 180:24	192:9,10,14 197:10	122:15
23:7,16 24:9 25:4	areas	asking	assigning
25:16,21 26:6,8,20	60:25	3:17 20:20 38:19	109:13
26:25 27:8 28:14	argue	39:10 40:16 42:25	assignment
29:11,15,19,25	40:22 160:10 189:8	44:17,22 47:7,9,11	32:6 57:21 101:19
30:18 31:4 34:24	189:11,16	49:5,16 51:6 54:11	102:9,14,20 103:5
46:8,9 52:12 61:24	argued	54:12 55:25 56:7	103:12,13,15,21
61:25 62:4,16,17,18	40:4	57:4 58:10,11,15	104:4,8 105:24
63:12 69:14 73:17	arguing	59:12 60:16 65:2	107:17,20 108:5,11
73:17,18 74:25 75:4	159:24	68:24 70:13 89:3	108:14 109:4,6,16
84:19,22,23 85:13	argument	97:21 111:5 112:2	109:19 112:19
86:7,13,17 87:6,23	38:8 160:3	113:15 120:7 122:6	156:18 159:4 164:6
88:2,5,11,24 89:6	arguments	128:18 138:9,23	164:14,17 165:8
89:21,24 93:22 94:3	159:25	140:25 144:19	166:7,21
94:8,14,22 95:13	arises	145:20 152:25	assignments
97:15 98:15,22	89:7,11	157:15,18 158:9,20	109:11
99:12,13 101:12,18	arose	160:11 161:25	assigns
101:22 102:4,8,12	85:4	163:24 172:15	104:6
103:3,16,22 104:6	arrangement	173:20 196:16	assist
104:23 107:10,12	80:18	asks	99:19,21 100:15
108:12,15,17 110:3	article	131:11	101:17 102:4,7
110:9 111:8 112:12	12:4,9	aspect	104:23 107:9
112:19 113:14	articles	21:18 32:3,16 37:11	108:15 112:21,22
115:14 116:20	10:18,21,23 11:3,6,8	58:9 60:22 83:20	assistance
117:7 118:6,23,23	11:9,12,14,19,21,23	aspects	195:4
118:24 119:19,20	11:25 12:7,11,15,19	150:11	assisted
120:14,16,19	13:3,9,16 14:2,4	assert	10:2
121:10 123:9,19,25	aside	21:3 54:16 132:5	assisting
124:15,23 125:5,23	37:22 53:9 57:20,21	asserted	10:8

associate 194:25 195:7	audited 91:12 147:13 157:5	159:9 167:20 180:3	179:10,13,16,18,20
associated 149:19 173:12	187:8	B	179:22 180:8,15,15
Association 84:6	auditing 76:25 95:7 96:17,20	B	180:22 181:4
assume 190:24	96:25 97:2,9,18	8:14 103:19 183:22	195:15 199:10
Assumes 190:6	100:2,20,22 111:25	205:6	bars,right 179:19
assumption 71:14 73:7 105:25	129:5 130:11 174:5	back 5:21 14:11,13 24:11	based 4:25 19:17 21:10,18
109:19	177:6,12	24:15,17,21 25:8	39:18 71:25 89:23
attaching 102:18	auditor 138:20 178:10,11	48:6 59:6 61:11	111:24 113:10
attachment 8:14	auditors 71:21 115:24 116:4	64:4 68:21 80:10	176:23 188:15
attempt 66:25 164:10 166:16	129:13 133:6 144:9	90:12 100:9 107:3	basic 192:2
190:15 201:4	177:25 178:2,4,5,8	117:22 118:12,22	basically 102:15 106:18 133:3
attempted 163:6,15	audits 78:21 129:8 136:25	119:10,24 120:3,10	148:11 181:25
attention 18:14 19:4 35:9	174:18 175:6 177:6	126:8 127:24	184:3
37:15 105:20 147:7	author 15:5,15	128:11 132:11	basis 17:18 22:11 23:10
149:2 155:19	authored 10:18 14:24 15:2	137:11 143:20	63:17 94:10 95:9
attestation 108:22 111:20	authorities 5:3 76:4 82:3	145:4 146:14,16	96:9 127:11 136:11
113:11 114:4,7	authority 32:17 70:3,14,14	159:13 162:18,25	188:18
attestations 84:4 105:8	72:22 82:15 88:15	164:20 169:8 170:8	Bates 17:6,16 194:13,20
attorney 3:15 6:13 130:18	89:5 91:19 187:3	186:22 193:13	198:6,9,23 199:14
132:3 171:7	authorized 10:22 51:16	196:13,21,22	201:22
attorney/client 7:7	authorship 124:9 125:13	backed 46:11 151:2	bathroom 68:17
Attorneys 2:4,9,13	available 15:8,9 161:6 176:4	background 117:3 173:24 189:13	BDO 95:24 97:19 118:2,3
attributed 94:13 155:15	195:3	backing 51:13,15	118:5,10,18 119:8
attributing 136:11	Avenue 2:5	backwards 171:17	119:17,20 120:14
audit 96:18 129:15 138:17	avoid 155:11 160:9	balance 188:21 199:15 200:5	121:9,13,21,23
179:3 192:6 194:7	avoidance 173:13	bar 179:17	122:6,8 128:8
197:17 199:22	awarded 31:14	Barber 1:8 2:20 4:18,18 5:12	129:13 130:2 133:3
	aware 19:11 32:3 48:23	5:13 31:5 34:25	133:14,16 135:10
	115:11 117:5,17	75:7 115:12 124:3	138:2 139:24 140:5
		125:7,17,18,20	140:6,16 141:13
		168:16,17,17 169:5	142:25 143:12
		189:12	189:7,21 192:6
		bars 82:17 147:17 153:14	bear 17:16
		153:20 154:4,5	bearing 71:7
		157:8 158:23	becoming 80:5
		159:13 173:10	

beginning 8:11 104:22 107:7 109:14 113:19 120:17 132:15	151:2 bit 143:3 168:20 201:3 black 49:8 blank 186:5,9 blood 206:16 Blvd 2:10 board 18:15,16,25 19:9 20:6 26:25 99:21 126:3,15 137:4 148:3 150:14 189:5 boarding 85:19,20 body 84:3 bottom 147:9 164:7 bracket 108:3 brackets 107:15 Braverman 1:8 2:19 4:15,17 5:17 5:18 31:5 34:25 75:3 130:14,15 131:6 132:4 140:13 147:11 148:16 149:7,14,16,18 150:2,15 151:5,18 152:7,22 153:12 154:7,11,23 156:10 157:3 158:22 162:19 163:20 168:15 169:2,8,19 169:20 170:3,15,21 170:25 171:3 172:13 173:6,17 183:14 190:11 193:7 194:19 196:12,15 198:5,8 199:18 200:4 201:5	201:10,18,24 202:3 205:5 Braverman's 147:18 151:24 153:22 break 27:4 68:17,18 74:6 94:8 130:6 138:8 141:18 144:14,16 144:19 breaks 180:25 Bribery 14:19 Brickell 2:5 briefly 43:9 68:23 bring 132:11 159:24 189:24 bringing 130:22 brings 68:21 Brinks 186:21 187:13 broadly 82:9 Broadway 2:14 broke 167:24 broker 149:20 brought 131:19 138:22 181:20 189:22,23 buck 195:6 build 150:18 build-out 151:18 building 150:12	bullet 164:2 bullion 48:11,20 75:6,16 76:8 82:15 84:6 114:18 137:3 138:18 147:15 151:2 157:7 Bureau 147:11 152:11 156:7 156:11,17 158:25 159:14 163:6,15,23 173:7,21 189:22 192:21 193:24 194:2,5,7,23 196:2 196:19 197:15 198:20 199:11,21 200:16 business 19:7 32:10 businesses 32:25 93:20 buy 90:3 buyer 76:12,16,18 77:9,11 77:15,21 78:2,8 79:2 80:7,9 81:2,16 81:21 83:13 84:22 85:18,19,19 90:19 93:2,7,7 94:14 114:18 115:5,6 116:7,13 117:13 165:4 buyer's 79:7 buyers 79:16,20,20,24 80:2 80:16,17 84:15 buying 76:18 78:3 83:14 190:25 191:4,24,25 BV 199:8 bylaws 15:24,25 16:5,7,17
---	---	--	--

16:20,23 17:5 18:3 18:8,9 19:14 21:19 205:14	186:20,22 categorically 191:12 catering 34:17 caused 29:9 CD 92:9 CDD 65:16 69:6 70:6 73:23 CDD)/Know 61:15 Center 31:12 178:15 centers 184:2 CEO 194:24 195:7 certain 21:21 84:24 94:24,24 106:5 132:18,23,24 133:9 134:10,16 135:8 142:18 certainly 7:6 132:7 155:6 Certificate 175:13 178:6 certified 105:9 111:21 114:8 certify 204:4,8 206:9,14 cetera 44:25 48:12 143:11 159:9 chain 158:24 175:14 178:7 196:22 challenges 11:4 change 172:2,17,18 changed 80:3,4 Chapman	147:11 156:9 158:24 163:22 196:21 197:15 199:8 characterization 139:17 characterized 37:23 CHARAP 2:7 charge 171:19,21 chartered 174:2 check 117:22 118:7,13 119:4,10 120:4 191:25 192:2 196:8 196:17 199:9 checks 61:16 62:2 64:20 65:24 79:2 81:22 chemist 175:5 chemistry 174:23 chief 147:21,25 149:7,17 149:21 151:20,25 152:14,22 154:13 154:16 China 14:22 chosen 131:10 Chris 125:19,22 128:14 129:7 cite 88:15 cites 89:4 clarification 47:11 110:24 clarified 166:11 clarify	6:16 11:17 22:22 26:17 46:6 56:13 70:8 73:4 138:24 139:12 140:2 145:9 145:23 146:9,11,19 147:3 158:10 160:10 clarifying 64:13 clause 183:22 clear 6:21 46:14 69:8 107:21 110:14 111:3 116:23 131:9 140:15 141:19 143:12 163:9 171:3 171:6 clearance 92:3 clearer 57:16 162:10 clearly 30:16,21 36:5 49:6 49:23 58:19 62:15 65:6 66:17 71:3 80:12 82:2 97:19 99:3,19 105:21 106:14 108:20 109:15 112:20 113:5,17 114:4,22 122:5 136:20 137:9 141:20 143:8 151:4 156:17 157:11 166:22 167:5,13 182:10 184:13,14 184:20 187:16 192:24 client 32:4 96:18 97:4,5,21 97:22 clients 32:12,15 34:7 178:23 close 57:17 88:19 89:8 124:11
--	--	---	---

clue 169:14	commented 50:3	43:24 46:18,19 52:17 55:4,5 64:9	67:15 151:20 203:11
co-defendants 3:16	commenting 45:14 54:10	65:4,5,9,11 69:22 69:22 70:25 71:25	concluding 24:2 70:15 87:5
Co-operation 84:10	commercial 77:23 91:24	73:15,16 120:18 140:14 149:14	96:10 142:22 201:15,18,23
COC 175:14	COMMISSION 1:3 2:4,5	151:23,23 152:16	conclusion 19:17 20:19,22 28:17
code 75:10	Commodities 31:12 178:15	complete 6:2 82:6	36:23 37:3,8 41:13 42:10,14 43:18,20
coin 55:16	common 191:10,18 193:3	completed 15:10	44:8,11,14,22 45:5 45:9 53:2 54:18
collaboration 14:21	communicated 117:7	completely 140:7	56:19 57:23 58:6 59:16 65:3,10 67:18
collective 136:7 168:13	communication 94:18 119:24 138:20	completing 134:24	67:24 71:13 72:6,24 88:14,16,17 105:13
collectively 67:10	communications 96:12 116:22,24	compliance 31:15,17,17 32:3 33:12,19 34:16	105:18 149:7
com 193:25	companies 32:4 33:3 62:11 174:21 178:24	68:12 115:7 150:14 174:4,8,18 177:23 187:9	conclusions 38:15 58:21 72:7
combating 78:18	180:12 181:2 187:11,14	compliances 34:6 115:10	conditions 185:19
come 71:12,13 81:12 91:24 92:2 95:7 105:20 118:17,22 143:11 181:23 187:12 192:18 193:13 196:21	company 18:18,21,22 19:8,12 20:6,15 25:20,22 26:7,9 28:11 31:11 31:14,15,18,25 33:16 34:10 39:9 62:14 64:6 65:14 68:5,9 69:21 70:24 72:21 73:6,10,14 75:7 92:16 93:23 143:23 144:9 150:9 150:12 163:6 186:7 186:19 188:11,20 191:6,7,14,15 195:7	complied 78:15 110:10 111:9 112:12 114:7	conduct 18:21 77:16,18 81:2 85:23 87:11 90:21 105:11 108:23 112:16 113:21 114:10,11 116:14 129:8,15 131:10 159:12 175:6
comes 92:20 120:10 149:22 175:18 178:17 196:22	compensation 164:4,11,18,23 165:6 165:14 166:5,8,19	comply 83:6,24 86:18 88:11 88:25 89:20,21 113:22 115:2	conducted 61:14,25 63:8,21 64:10,19 66:18 68:8 72:23 73:20 80:19 89:25 90:5 91:11 93:2,25 105:7 156:20 164:25 175:8 178:13,19
comfortable 8:18	complaint 21:8,23 22:9 24:3,8 24:11,13 25:2,12,18 25:23 26:24 27:2,16 27:18,23 30:6,20 42:18 43:2,3,5,24	component 27:5	conducting 136:24 163:11 175:21
coming 24:23 32:18 64:4 65:9 72:24 131:25 135:20 150:8		comport 76:9 96:2,5 110:4	conference 35:6 197:21
commenced 152:21		comported 75:9 76:9 99:14	confirm 4:7,10,23 99:3 106:4 106:20 107:8 112:3 119:4 137:2 159:19 165:4,9 168:4
comment 7:4 21:17,18 44:12 46:17 54:11 55:10 60:21 121:14 167:20,23 190:16		compromised 155:24	
		concerned 55:14 166:13	
		concerning 29:17 33:10,25 34:3 48:19 52:20 53:14 57:25 121:8 124:24 165:19 166:18	
		concluded	

184:23 185:16 188:24 confirmation 99:7 185:25 confirmed 4:12,14,15,19 98:3 170:10 confirming 23:17 98:4 99:7 101:3 103:7 104:12 104:17,19 105:23 106:12,22 107:19 107:22 109:4,20 113:9,10 182:3,8,11 182:25 184:15 185:22 192:16 198:19 confirms 137:4 185:24 confused 141:19 confusing 162:8 conjunction 134:18 connection 10:10 16:24 36:18 40:10 89:12 117:9 considering 23:8 67:3 consisting 8:13,14 consolidation 118:2 constitute 87:4 constraints 179:6 consultants 31:17,24 33:20 34:5 34:16 148:4 contain 78:6 185:11,18 186:8 186:14 187:21 191:13 contained	109:7 container 181:18 contains 104:9 contend 65:20 162:11 content 14:9 contention 44:4,16,18 71:16 139:2,21 161:13 contents 194:16 context 95:18 135:3 continue 17:25 168:23 201:17 Continued 202:15 continues 35:8 contract 73:18 182:9 199:21 control 21:12 25:19,21 26:6 26:8 27:4,24 28:2,7 28:9,10,14,23 30:17 30:22 57:8 69:19,20 69:23 70:19,24,25 71:9,14,23 72:10 73:6,10,17 110:25 120:19 144:4 189:4 controller 72:12,13 143:23 controllers 72:21 controlling 73:13,19 conversations 115:25 convert 129:22 convey 37:16,24 conveyed	66:19 COP 178:6 copied 48:13 75:25 118:16 119:11,25 153:8 copy 8:4 15:23 101:4 103:13,15 169:17 169:22 203:5 corporate 10:13 12:22 correct 7:16 15:16 30:13 55:18 73:8 129:9 134:12,13 145:25 146:22,25 158:7 172:7 173:16,22 194:8 204:9 correctly 7:14 11:18 55:12 64:17 137:19 corruption 11:6 14:17 cost 182:18,20 Council 175:13 counsel 6:5,13,18 7:10,15 21:2 51:22 53:6 55:23 116:11 120:12 136:18 138:16 144:2 178:6 count 159:12 179:21 190:23 191:25 counter 171:24 172:20 counter-financing 13:8 32:23 66:5 83:8 86:24 88:8 counter-party 88:3 counting 147:17 153:14,19	154:3,5 157:8 158:22 173:9 195:15 country 92:7 125:24 COUNTY 206:5 course 15:12 36:17 38:7 39:11 41:5 43:11 46:21 52:19 53:13 57:23 60:4 148:23 court 1:2 6:3 7:21 127:2 203:4 covered 68:22 142:15 CPA 105:9 113:10 CPAs 114:8 create 187:2,23 creates 79:15 89:5 creating 3:18 crime 174:3 crossed 145:15 crypto 31:5,7,9,10,18 32:4,8 32:10,13 33:4,6,7 33:10,14,16,25 34:3 34:5,6,10,17,20 36:20 37:6,18 38:2 38:9,22 39:15 40:2 40:13 41:9 42:7 56:22,24 Cryptobontix 1:7 25:14 26:4 31:4 34:24 75:2 148:12 150:2,7 152:6 currency 31:9 32:8 33:5,10,25
--	---	--	--

34:3,5,6,20 56:22 56:24 currently 150:12 custodian 186:2 Custody 175:14 178:7 custom 91:25 92:3,3 customer 61:14,15 64:19,20 66:7 76:20 77:16,18 80:19 89:25 90:5,8 183:24 184:5,9,17 187:18 cut 194:12 cutout 146:2 cybercrime 14:14	113:17 117:19,20 118:10,25 119:17 119:22 120:16 121:8,13,21 128:8 129:13 130:2 189:7 189:21 192:6 205:15 Dawn 2:9,11 4:21 168:7 day 3:14 68:3,14 125:22 168:14 204:19 206:19 day-to-day 18:21 30:18,23 days 195:17 deal 43:8 dealer 149:20 dealing 75:15 82:16 87:19 89:19 90:2 decision 28:10 54:20 71:24 143:24 decisions 89:18 declined 158:25 192:23 declining 159:3 dedicated 33:5 deed 164:6,13,16 165:8 166:7,20 defendant 2:9,13,19,20 25:25 30:8 65:6 70:23 72:13,19 75:7,8 96:24 120:9 121:22 134:15 135:6 149:13 164:25 171:7	defendant's 25:11 defendants 1:9 4:8 25:11,24 30:6 30:8 61:13,22 62:14 62:17,20 63:5,16,20 63:21,23 64:8,12,13 64:18 65:5,7,20 66:20,23 67:2 68:4 68:25 69:6,10,25 70:4,9,11,15 73:14 74:25 80:13,15,16 84:19 85:13 86:3,4 86:14 89:14 94:4 95:23 96:5,7 116:2 120:17,20 133:12 133:19,20 134:14 135:8 136:3,6,10 137:25 139:3,22 140:8,12,12,13 141:6,10,11,22 142:2,5,10,17,23 143:20 144:5 151:24 155:24 162:20 163:2,5 defined 30:7 36:5 37:10 64:9 120:20 147:23 148:5 150:23 151:25 152:5 153:9 defines 25:24 65:6 150:10 defining 151:9,12 definition 34:13 183:5 defraud 35:7 degrees 173:25 174:7,22 delegate 68:11,11 delegated 19:8 delivery 78:20 79:9,17,19,25	80:23 82:13,14,18 82:19,25 84:8,9 87:8,13,15,20,21,24 92:11 93:11 113:23 175:15 176:10 178:9,10 184:16 188:12 denial 155:20 156:21 158:4 162:17 denied 156:3,25 157:19 158:15 159:8,8 160:12 161:14,21 162:3,12 dense 143:3 dependence 114:23 deposition 1:15 4:10 5:15 6:6 7:20 8:4 57:2 131:10 202:11 depositor 185:17 derivations 138:14 derive 138:15 described 32:6 37:4 45:19,20 65:22 66:22 67:22 69:2 70:16 76:3 96:8 114:20 115:15 describes 82:20 describing 62:6 63:3 70:5 76:10 78:5,7 96:23 98:21 DESCRIPTION 205:11 designated 32:24 93:20 designation 24:17,18 25:7 designer
<hr/>			
D			
<hr/>			
D			
3:2 204:2 205:2			
D-I-G			
52:15			
data			
15:11			
date			
1:12 8:8 12:19,21			
16:3 98:12 123:11			
124:16 202:12			
dated			
8:5 15:24,25 48:9			
128:12 143:25			
147:10 149:24			
195:11,15 199:11			
205:14			
David			
111:7			
Davis			
95:24 98:10,14,16			
106:20 110:2 112:3			
112:10,16,17			

150:24 desk 150:16 desktop 176:2,16 despite 145:6 details 103:5 176:7 200:8 determine 18:17 61:18 100:19 104:8 124:8 125:12 127:15 158:11 166:16 167:10 determined 103:2 109:7 determining 63:18 64:23 99:22 100:16 101:13,18 102:8,23 104:24 105:14 107:10 108:10,15 112:21 112:23 Development 84:10 dialogue 173:7 different 39:10 52:2 87:14 95:5,17 110:7 121:15 123:2 138:7 140:8 181:15,15 189:3 differently 134:7 difficult 179:6 DIG 35:4 52:12,13,22 53:15 54:8,14 55:16 55:16 59:2 60:10,18 61:6 Dignity 58:2 diligence 61:15 63:9,22 64:10	64:19 66:2,8,17 67:12 68:8 71:4 72:23 73:20 76:16 76:20 77:16,18,19 79:3 80:9,20 81:3 81:15 83:12 84:5,16 85:14,23 87:12 89:25 90:6,8,21 91:16 92:18,25 93:10,24 94:24 112:17 113:21 114:10 116:14 122:5,12 164:21,24 165:2,3 189:16,17 189:18 191:9 direct 16:13 18:14 19:3 77:6 100:11 106:3 155:18 183:17 directed 132:17,22 133:8 134:9,15 135:7 directing 147:7 direction 18:25 132:19 189:3 directions 21:15,21 directly 173:12 174:24 director 22:2,12,16,19,21,23 23:7,16,24 24:2,9 24:19,20 25:3,14,16 26:3,5,19 27:7,13 27:19 29:11,14,25 30:5,11,24 64:3 69:13,19 156:11 directors 18:16 19:13,25 20:16 70:18 99:21 126:3 126:15 137:5 143:22 144:10 148:4 directorship 23:22	disagree 44:13 disagreement 57:14 disclaimed 70:2,12 72:7 disclaiming 106:14 disclose 96:18,21 97:3,14 disclosed 165:25 166:24 disclosure 116:25 discount 171:20 discuss 147:14 157:6 160:5 discussed 27:19 94:6 137:22 discusses 77:8 discussing 73:24 79:9 87:7 discussion 17:13 48:10,11 71:20 115:13 144:25 145:11 170:7,13 193:17 202:8 discussions 32:15 71:19 72:4,15 115:17,24 128:20 128:22 144:8 display 8:2 123:5 145:8 distinctment 126:11 distinguish 66:25 distribution 46:24 47:22 48:24 49:19 50:2,4,8 51:9 51:24,24 DISTRICT 1:2,2 division	194:2 DMCC 178:14,15 document 8:2,11 16:8,19,21 17:4,24 18:6,7,11 23:14,17,22 24:19 26:14 27:13,14,15 47:3,7 55:7 91:25 92:6,12 98:9,23 99:4 100:24 101:3 117:23 118:18 123:13,16,23,25 124:7,19,21 125:10 125:14,16,17 126:7 126:7 128:9 130:5,8 138:25 145:8,14,16 146:14,16,18,19 147:3 148:19 149:9 149:21 152:16 164:3,15,17 165:7 165:12,18,20,22,24 165:25 166:4,9,13 167:4,11,16,17,18 176:21 181:24,25 181:25 182:4 183:8 183:9,10,25 184:4,5 184:7,10,12,15,17 184:25 185:4,6 186:3,14 187:17,19 187:20 192:11 194:10 195:23 197:23,24 199:11 199:12,14,16,19,24 200:4,10,25 documentation 13:2 83:16,16 92:17 92:25 119:14 164:11 166:17 174:18 179:20 181:5 187:24 189:6 189:19 documented 15:11 documents 8:15 16:9 21:9 23:12
---	--	---	---

24:5 26:13 39:12,24 46:11 55:5 66:11,11 66:13,13,14 75:13 76:3 77:25 81:8,14 89:16 90:9 91:5,16 91:17 92:3,4 93:5,6 118:20 121:6 122:18 130:13 131:14,18 148:23 151:10 152:4,18 155:7 166:23,24 167:6,15 171:13 172:5,8,13,16,25 173:2,5 174:19 187:15 188:10,13 188:14,22 193:9,13 196:5 201:21	133:22 135:13 140:10 142:9 dropping 140:17 Dubai 3:12,13 31:11 79:18 80:22 82:17 84:7 87:21 88:4 91:23 99:23 147:16 157:8 178:14 180:24 181:18 due 61:14 63:8,22 64:10 64:19 65:25 66:7,16 67:12 68:8 71:3 72:23 73:20 76:16 76:20 77:16,18,19 79:3 80:9,19 81:2 81:15 83:12 84:5,16 85:14,23 87:11 89:25 90:5,8,21 91:15 92:18,25 93:10,24 94:24 112:16 113:21 114:10 116:14 122:5,12 164:21,23 165:2,3 179:6 189:16,17,18 191:9 duly 3:3 204:5 206:11 dump 31:6 36:20 37:6,18 38:2,10,23 39:7,16 40:2,13 41:9 42:7 42:22 duties 19:4,6 duty 93:15	95:15 96:9,13 111:12 116:15 127:9,11 130:25 136:6,13 137:23 141:3,16 142:15 145:9,10 166:14 194:4 easily 8:25 131:19 East 2:10 Eaton 125:19 128:15 129:7 economic 14:5,12,13 84:10 economy 13:10 175:7 178:22 education 174:7 effect 14:18 58:21 60:7 efficient 110:21 efforts 167:10 either 20:14,23 39:16 49:14 50:10,11 118:10 119:17 121:8 127:23,24 143:16 158:18 179:17 elaborate 34:4 element 70:20 elements 80:8 Elliot 95:24 98:10,14,16 106:19 109:25 111:6 112:3,10,15 112:17 113:16 117:19 118:10,25 119:17,22 120:15 121:8,13,21 128:8 129:13 130:2 189:7	189:21 192:6 205:15 email 29:12,13 48:8,13,14 48:15,16 51:17 71:19 115:19,22 118:16 120:2 125:18 126:5,6,9,12 128:7,12,17,17,22 128:23 129:5,14,16 136:23 137:8,11,16 137:17,20 138:5,11 138:14,15,19 139:19 140:4,5,6,6 140:16,20,23 141:15 143:10,25 144:7 147:9 148:10 148:11 149:24,25 150:3,3,8,10 151:9 151:17 152:6,18 153:11,17,19,21,22 153:24 154:6,8 156:7,8,8 157:2,12 158:21,24 159:3,7 159:10 160:24 162:18 163:20,21 173:22 193:23 194:4,11,22 195:14 195:19,20 196:2,3 196:16,23 197:4,9 197:22 198:18,21 199:2,8 200:18 202:12 203:8 emails 21:11,20,23 24:4 27:9,10,20 29:9,14 29:17 48:5,7,13,19 50:16,17 51:12,14 115:25 119:10,11 122:21 130:4 136:20 137:17 138:9,10 148:6 151:8 152:11,21,25 153:2,4,8,10,25 154:9 163:19 196:8 196:18,22
doing 13:11 62:8 67:16 68:13 106:15 113:20 126:18 DOLAN 2:13 dollar 46:10 domain 176:4 domicile 85:17 downturn 14:12,13 dozen 169:3 drafted 20:17 drafting 37:2 drawing 33:22 drill 63:13 drop 133:14,16 135:10 138:3 139:24 141:13 142:6,25 dropped	E 2:2,2 3:2 204:2 205:2 205:6 206:2,2 earlier 57:14 68:22 94:8		

Emerging 14:20	186:19	54:13 55:11,14,24	189:4
emits 51:11	entitled 7:4 123:17 126:25	55:25 56:2 57:24	executor 25:21
EMN 76:19 176:9	entity 69:24 71:2 171:20	58:12,15,24 59:13	exercised 26:7 30:17,22
employees 20:7	envelope 186:4,5,6	59:15 60:6,17,23	exhibit 8:3,7 15:22 16:2
enable 129:2	equally 85:21 114:24	64:2 77:22 137:14	17:16,20 19:18
end-to-end 175:18	equate 180:21	137:21 167:7 190:7	48:17 61:12 74:21
ends 164:3	equivalent 180:20	190:8,12,17	98:7,11 100:12
enforced 13:7	especially 12:24 13:12	evidences 41:17 46:18 72:2	103:11 123:6,10
engage 156:13 177:25	ESQ 2:6,7,9,11,15,16	81:8	124:15 132:12
engaged 32:11 105:10 108:23	establish 45:11 64:6 65:13	evidencing 124:24	145:5,7 148:2,10
117:21 118:6,8,11	93:9 120:6 136:18	evolving 33:15 80:5	185:14 197:13
118:13,19,22 119:2	137:14 138:12	exact 24:10,18 60:12	198:25 200:8,21
128:19,21 129:12	established 66:8,10,16 70:21	exactly 16:10	201:7,8,12 205:10
160:3 178:8	95:2 105:8 111:20	examination 3:6 105:11 106:17	205:10
engagement 105:7 118:14,15	establishing 43:13 73:9 143:21	108:24 114:11	exhibits 21:10 23:13 24:4
121:19,24 159:2,15	estate 33:3	163:12 170:24	27:16 129:23 167:7
163:9,18 192:23,23	estimate 13:15	203:10 205:4	172:14 199:2 205:8
engaging 152:12 191:7	et 44:25 48:11 143:11	206:10,12	exist 83:11 106:12 109:20
engineering 174:23	159:9	examine 75:12	existed 77:23 91:7 98:2 99:6
ensure 67:8 115:6 184:6,10	evades 120:24	examined 3:5	167:5,11
ensuring 18:20	everybody 93:3 154:12 155:14	example 77:21 137:20 176:9	existence 61:17 62:3 66:15
enter 92:21	155:15 191:22	190:24	81:5 92:22 94:23,25
entered 66:2 67:13 127:14	evidence 36:19 38:6,20 39:14	exchange 142:16	98:5 99:8,22 100:5
entering 92:23	40:11,17,17 41:6	143:16	100:16,19,23 101:3
entirely 67:25 120:24	42:4,21 43:6,12	144:16	101:13 102:17
entities 83:22,24 176:14	44:3,15,20 45:11	145:16	105:14 107:23
	46:23 47:21 48:23	146:16	112:3,22 113:25
	49:18 50:7 51:5,7	147:16	132:25 187:4 188:7
	52:20 53:13,23	148:16	188:7,24 192:11,17
		149:16	exists 83:10 104:17 106:24
		150:16	112:5
		151:16	exit 92:6
		152:16	experience 9:22 31:8 32:7 35:10
		153:16	35:18 36:11 56:23
		154:16	89:23 174:3 175:9
		155:16	175:20 180:24
		156:16	
		157:16	
		158:16	
		159:16	
		160:16	
		161:16	
		162:16	
		163:16	
		164:16	
		165:16	
		166:16	
		167:16	
		168:16	
		169:16	
		170:16	
		171:16	
		172:16	
		173:16	
		174:16	
		175:16	
		176:16	
		177:16	
		178:16	
		179:16	
		180:16	
		181:16	
		182:16	
		183:16	
		184:16	
		185:16	
		186:16	
		187:16	
		188:16	
		189:16	
		190:16	
		191:16	
		192:16	
		193:16	
		194:16	
		195:16	
		196:16	
		197:16	
		198:16	
		199:16	
		200:16	
		201:16	
		202:16	
		203:16	
		204:16	
		205:16	
		206:16	
		207:16	
		208:16	
		209:16	
		210:16	
		211:16	
		212:16	
		213:16	
		214:16	
		215:16	
		216:16	
		217:16	
		218:16	
		219:16	
		220:16	
		221:16	
		222:16	
		223:16	
		224:16	
		225:16	
		226:16	
		227:16	
		228:16	
		229:16	
		230:16	
		231:16	
		232:16	
		233:16	
		234:16	
		235:16	
		236:16	
		237:16	
		238:16	
		239:16	
		240:16	
		241:16	
		242:16	
		243:16	
		244:16	
		245:16	
		246:16	
		247:16	
		248:16	
		249:16	
		250:16	
		251:16	
		252:16	
		253:16	
		254:16	
		255:16	
		256:16	
		257:16	
		258:16	
		259:16	
		260:16	
		261:16	
		262:16	
		263:16	
		264:16	
		265:16	
		266:16	
		267:16	
		268:16	
		269:16	
		270:16	
		271:16	
		272:16	
		273:16	
		274:16	
		275:16	
		276:16	
		277:16	
		278:16	
		279:16	
		280:16	
		281:16	
		282:16	
		283:16	
		284:16	
		285:16	
		286:16	
		287:16	
		288:16	
		289:16	
		290:16	
		291:16	
		292:16	
		293:16	
		294:16	
		295:16	
		296:16	
		297:16	
		298:16	
		299:16	
		300:16	

181:22 187:6,12 expert 1:15 5:11 6:10 7:3,4 7:9 8:5,6 9:6,7,12 9:16,20 10:3,5,14 10:15 16:6 18:4 19:22 20:13 21:14 21:22 29:4 30:19,25 33:10,11,24 34:2,4 34:8,9,12,19 35:23 35:24 36:4,13,15,15 36:23 37:9,14 38:13 39:19 40:19 44:23 49:7,23 50:5,15 55:6 56:21,22 58:20 59:17,23 60:20 72:15 75:24 86:11 89:24 104:14,15 131:12 168:25 169:12 171:14 175:23 176:18,22 189:13 190:23 191:3,18 205:13 expert's 49:3 expertise 26:11 28:19 29:4 33:18 34:16 36:10 43:4 45:7 54:22 55:2,23 58:18 59:22 60:19,25 experts 10:2 explain 46:7 199:18 explained 165:3 explaining 51:5 explored 49:15 export 92:5 exposed 93:18 express	105:17 expressed 94:2 154:2 expression 105:13 extended 160:20 extends 136:7 extensive 56:23 176:2 extent 19:15 42:8 43:17 51:3 52:24 59:20 67:17 102:16 127:13 149:5 173:14 190:13 <hr/> F F 3:1,2 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1	106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1,2 facilities 147:16 157:8 fact 73:9 92:20 101:7 138:21 149:2 163:5 191:21 facts 155:5 190:7 factual 20:22 53:11 71:16 72:9 failed	96:24 98:22 142:2,7 142:18,25 failure 163:2 fair 9:15 fairly 51:11 74:22 Faisal 1:15 3:10 21:2 204:15 falls 93:19 familiar 52:13 179:7 far 57:2 fast 200:14 FATF 83:21,23 85:9 88:6 88:10 February 199:11 200:11,17 feel 17:24 149:9,10 173:11 field 175:21 file 16:8 48:6 fill 33:21 fin 169:21 final 8:12,13 finalization 171:14 finance 78:21 financial 32:22 83:20,21 85:9 91:6,8 174:3,8 177:11 178:2 financing
--	--	---	---

78:19 find 167:4 finding 71:11 findings 101:2 fine 144:21 145:24 161:11 finish 3:21 5:23 110:16,17 134:4 182:7 183:15 196:11,12 firm 6:19 31:23,24 32:20 71:21 96:20 97:2,9 97:18 135:7 156:14 163:5,10 firms 72:16 94:17,19,21 95:22,24 96:17 97:14 121:20 122:19 132:16,22 133:8 134:9,15 135:16,18 147:13 192:6 first 3:3 16:16 17:2 27:21 31:10 33:16 76:15 90:20,25 99:19 101:2 102:2,5 107:6 109:8 164:24 171:8 194:10 204:4 five 9:6,8,13 13:11 57:3 74:8 168:3 169:9 170:16,17 flag 133:13 135:9 136:3 136:10,12 138:2 139:3,23 140:9,11 141:12,21 142:6,11 142:20 143:13,18 155:23 162:19 flags	133:22 140:17 189:23,25 193:3 floor 169:6 Florida 1:2 2:6,11 focus 22:10 33:21 35:9 60:25 121:2 127:4 focused 14:14 37:13 106:7 follow 84:4 88:5 115:10 163:3 176:21 177:3 177:4,7,13 followed 49:24 54:5 66:7 67:9 81:15 85:10 92:19 100:5 101:9 111:24 114:4 117:15 following 93:4 104:9 109:8 116:9 128:3 149:4,4 184:18 follows 3:5 88:17 footer 151:9 Force 83:21,22 85:9 foregoing 204:8 forensic 9:24 167:2 form 28:12 30:14 41:16 45:24 60:22 62:9 63:4 72:25 162:6 172:3 173:18 174:11 175:2 176:25 182:11 188:4 190:6 192:20 194:15 195:10 196:7 198:3,4 formal 174:6	formed 45:8,15 46:5 69:12 69:14 forming 59:22 73:4 76:6 85:24 86:5,8 Fort 2:11 forth 5:21 196:13 206:11 forum 129:10 forward 57:12 127:6 195:2 forwarded 29:13 founder 25:13 26:3 four 4:8 11:2 150:11 fourth 164:2 frame 107:4 framed 61:7 framework 31:20 33:19 79:11 free 17:24 149:9,10 fresh 140:22 front 169:18 194:20 full 173:14 187:2 197:17 funds 66:9 91:13 further 56:15 75:11 89:12 143:14,14 147:2 155:22 160:5 163:4 201:11 204:8 206:14 FZE 75:8	G G4S 95:25 99:23 100:17 115:12 180:25 182:2,9,13,24 183:17,19,23,23,25 184:6,6,8,9,16,21 184:22 185:15 186:17,19,20,20,21 186:22,23,25 187:13,22,24 188:11 189:7 191:14 gathering 176:5 general 18:17 131:11 generally 6:23,25 198:13 geologist 175:4 geology 174:23 gesture 6:2 getting 142:13 give 5:24 13:14 110:23 139:16 143:5 171:20 186:7 197:18 198:24 given 7:21 18:25 21:15 112:25 164:23 171:19 182:2 204:10 206:13 giving 70:12 129:21 glad 90:10 global 14:5,12 88:10 174:2 globally 14:8 178:24
--	--	---	---

globe 174:21	195:8 197:3,5 200:14 201:17,25 203:7	199:23 Goldberg 1:8 2:10,21 4:22 29:22,24 30:10 31:4 34:25 52:2,6 61:7 65:17 74:2 75:3 94:5,7,11 95:11 96:4,11 121:16 123:2 125:20 136:8 139:9 141:5,9 142:17,22 143:17 162:22 194:25 195:8 197:5	guide 170:2 guidelines 75:25 76:23 78:17,22 80:24 82:20 83:3 84:11 85:10 Gulf 11:22 12:6,13,16,20 guys 169:13
go 4:3,4 17:10 24:10,15 24:17,21 25:8 35:21 44:8 48:6 61:11 78:9,24 80:10 93:14 100:9,23,25 103:4,7 103:25 117:22 118:12 119:10,24 120:3 123:22 130:4 143:7 144:11,22 146:14 148:20 155:10 162:24 168:13 169:2,5,9 170:4,8,14 189:2,11 191:19 199:22 202:6	gold 10:24,25 11:18 13:5 44:24 46:11,17,25 47:23 48:10,11,19 48:25 49:20 50:9 51:10,13,14,15 54:6 61:17 62:3 66:15 71:22 75:5,10,15 76:2,8,12,24 77:10 77:22,23 78:3,14,17 78:22 79:12,16 81:6 81:11,13 86:21 90:3 90:24 91:6,7,9,11 91:14,20,22 92:2,9 92:10,11,14,23,24 93:4,19,23 94:23 95:2,14 96:19 98:5 99:8 101:19 102:9 102:18,18,24 103:17,18 104:11 104:19,24 107:11 107:20 108:4,10,16 109:12 112:23 113:22 114:12 115:18 117:9 123:17 124:25 137:3 155:22 156:4 156:23 157:21 158:16 161:15,22 162:5,14 163:12 165:5 166:6 173:8 173:10,14 174:9,17 174:25 175:7,17 177:5,17,20,24 178:3,16,19 179:5,7 179:10,13 180:2,19 180:19,21 181:8 182:8,14,20 184:3 185:3,21,25 187:4 187:11 188:2,3,7,8 188:10,20,24 189:10,12 190:4 191:19 192:9 193:5	goldvault 180:13 good 3:14 7:17 17:22 26:16 74:6,13 78:20 79:9,17,19,25 80:23 82:13,14,17,18,25 84:7,8 87:8,13,15 87:20,21,24 93:11 113:22 125:22 175:15 176:9 178:9 178:10 goods 81:3,5 83:14 185:17 Google 176:11 gotten 57:19 governing 75:10,18 government 171:20 green 40:18,21 grossly 191:25 group 67:11 177:22 guess 8:13 17:23 111:14 136:8 157:9 201:12 guidance 79:16	guide 170:2 guidelines 75:25 76:23 78:17,22 80:24 82:20 83:3 84:11 85:10 Gulf 11:22 12:6,13,16,20 guys 169:13
goes 36:2 41:3 67:25 141:16 158:24 164:20			<hr/> H <hr/>
going 3:17,20,22 7:25 8:2 8:22 15:20,21 17:10 17:14 18:10,13 19:2 22:17 27:4 29:21 35:25 40:7 43:7 44:20 51:7 54:16 55:18,19 57:2,4,17 58:12,24 59:6,11,19 60:6 74:17,19,22 81:24,24 84:21 90:3 93:22 94:15 95:6 98:6 105:4 108:15 110:19,25 117:3 120:23 123:5,6 124:17 126:16 127:5 130:16 132:8 132:10 139:6 143:20 145:7 146:16 148:22 155:8 159:16 160:8 161:2 162:24 166:14 168:2,19,20 171:4 193:8,11			H 3:2 205:6 half 57:3 168:21 halfway 102:2 Hall 150:19 151:19 hand 17:9 184:6 206:19 handed 92:14 188:11 handle 195:8 handling 195:2 happen 193:10 happening 88:4 happy 55:9 161:8 173:2 hard 196:14 head 11:11 12:10 151:11 153:5 177:22 178:21 hear 134:22 heard 69:3 held 1:16 17:13 99:23

100:17 144:25 149:16 154:20 170:7 193:17 202:8 help 86:15 123:15 195:3 helps 171:17 hereinbefore 204:11 206:11 hereunto 206:18 herewith 185:16 high 179:10,13 180:7 highlight 106:10 199:7 highlighted 107:25 136:21 163:4 hire 163:6,15 hired 6:17 31:25 33:17 135:18 179:2 189:21 hiring 95:23 96:18 hoc 176:24 Hogg 1:8 2:14,18 3:15 5:7 22:2,12,20 23:6,15 24:8 25:3,13,18,25 26:2,4,6,19,24 27:7 27:10,23 28:13,22 29:10,18 30:13 31:4 34:24 36:19 37:5,17 37:25 38:9,22 39:15 39:25 40:12 41:8 42:6 43:13 44:4 45:21 48:8 52:3,6 52:21 53:15 54:13 55:15 57:25 58:25 59:13 60:9 61:8 62:7,25 63:15 64:17 64:23 65:17 69:7,10	70:11,23 71:6 72:9 73:2 74:3 75:3 94:5 94:7,11 95:10 96:4 96:10 118:11 119:16,25 120:7 121:9,12 122:21,23 125:19,22 126:9 128:7,13 129:6,12 136:8,12,23 137:9 137:15,24 139:2,9 139:21 140:7,13 141:4,9 142:16,22 143:17 146:24 150:7 161:13,20 162:3,12 Hogg's 46:23 47:21 48:23 49:18 50:7 51:8 150:5,23 hold 26:24 195:24 holding 25:5 182:4,12,14 185:3,3,9 holds 182:8 hopeful 57:11 hopefully 43:8 193:9 hour 168:6,13,21,21 171:16 hours 57:3 168:9,11 171:12 171:15 176:19 184:19 houses 150:17 Husvar 193:25 hypothetical 172:23 <hr/> I <hr/> ID	153:22 identification 8:8 16:3 91:2 98:12 123:10 124:16 178:19 identified 10:15 15:4 75:24 98:23 101:19 102:9 107:16,20 108:11 108:13 110:4 112:24 113:3 116:20 151:17 identifies 86:16 99:12 110:2 111:7 112:11 identify 12:17 99:11 110:8 111:15 152:22 160:15,19 163:14 193:3 identifying 139:20 identity 83:15 90:25 ignored 133:13,19,21 135:9 136:3,10 137:25 139:3,23 141:12,22 142:5 ignoring 136:12 142:3,20 implementing 32:22 important 108:6 include 33:2 36:6 58:20 63:16 69:7 96:4 114:16 130:9,13 136:12 140:12 included 12:23 14:21 69:10 72:8 94:10 105:15 116:24 122:21 136:15 139:22 141:5,9 142:23	includes 104:22 114:23 125:19 149:8,10 164:18 including 9:12 18:18 70:10 94:5 150:4 152:11 184:8 189:8 191:22 inclusion 137:24 independent 7:9 71:10,16 73:5 94:17,19 99:16 114:22 115:3 119:15 121:7 122:17 132:16,21 133:8 134:8 135:16 135:17 Index 1:5 indicates 164:4 166:4 indicating 164:11 165:13 individual 119:23 individually 10:13 67:10,11 individuals 21:16 148:3 industries 32:21 industry 33:8 34:17 44:24 75:17 76:2 78:14 82:11,12 86:21,25 92:13 93:4 173:15 174:15 178:3,3 inform 115:5 116:6 information 26:13 30:9 57:5 61:19 73:12 116:13 127:4 129:20 131:24 142:12 171:23,24 172:20
--	--	---	---

176:4,6 184:18 186:15 informing 115:8 initial 17:25 initially 109:25 injunction 21:8 insert 35:22 inside 53:21 inspection 163:7 175:17 inspections 163:18 178:21 inspector 193:25 instance 173:11 instances 15:16 173:16 Institute 105:9 111:21 institutions 32:22 instruct 8:16 21:4 123:13 instructed 137:10 184:9 instructing 133:5,19 instruction 51:17 133:2 instructions 96:14 122:20,24 138:17,18 insurance 33:3 91:18,21 188:13 insuring 186:11 intend 37:24 intending	62:24 intention 37:3 66:23 interest 64:12 interested 206:17 interject 161:3 international 75:9 93:7 113:24 177:8,10,12 186:20 186:23 internationally 179:25 Internet 176:6 interrupt 82:23 95:4 100:7 127:22 interrupting 4:6 introduce 194:24 introduced 195:17 inventory 133:4 180:13 191:2 invert 188:9 investigate 42:20,23 43:5 58:8 58:11 117:12 119:3 124:7 investigated 143:14 167:3 investigating 122:23 investigation 167:2 investing 55:17 58:3 60:10 investment 150:17 investors 35:3 43:15 44:6	invoice 77:23 91:25 166:6 involved 52:22 97:14 120:7 133:21 176:14 187:25 involvement 173:6 iPhone 153:21 irrelevant 40:6 irrevocably 185:16 ISAE 177:6 ISO 176:23 issue 59:14 95:7 148:13 163:10 187:14 issued 10:9 14:23 15:3 35:5 52:12 54:8 118:24 120:14,15 185:14 issues 126:10,13 190:2 issuing 186:12 item 155:20 iteration 16:23 <hr/> J <hr/> James 1:8 2:10,21 75:3 194:25 195:7 197:5 Jamie 4:22 January 78:20 197:14 198:20 Jewellery 175:12 Joe 156:9 158:24 163:22	197:14,16 199:8 join 5:7,13 Joseph 147:11 Josh 194:23 Joshua 193:25 194:23 Journal 13:16 Journals 11:21 12:8,12 13:4 13:18 judgment 34:14 129:2 140:23 July 128:12 137:18 144:2 149:25 jump 191:18 June 15:24 16:2 48:9 149:18 205:14 jury 21:9 <hr/> K <hr/> keep 55:3 59:6 93:13 140:14 keeping 99:5,22 100:16 101:4 101:14,21 102:11 102:17,19,22,25 105:15 113:3 126:2 181:23 182:12 183:4,7 184:23,24 185:13 186:12 keeps 154:12 kept 44:9 128:21 180:13 186:13 187:20 key 14:11
---	---	--	---

kilo 179:17,20	112:2 115:4,19 116:2 118:8,21	label 17:7	190:2
kind 28:16 41:13 42:10 43:20 45:4	119:5 123:13 126:2 127:23 130:20 132:19 133:19	lack 198:23	LBMA 78:22 80:23 82:14,16 82:17 84:7 87:18,19 87:19
kinds 90:9	135:15,20 136:24 137:23 140:5	lacking 199:14	lead 31:23 32:19
Kissane 2:15 3:7,15 4:4,12 5:6 6:20 7:11,17,25 15:20 17:8,18,22 19:19 20:20 21:6 22:16 28:20 38:19 40:20 47:17 49:10 54:23 57:7 58:22 67:19,25 68:19 74:5 74:10,14 90:11 98:6 110:19 120:22 123:4 124:11 126:16 127:13 132:8 144:17,21 155:12 159:16,23 167:24 169:11 170:4,8 205:5	142:10 143:10 146:4 147:18,23 148:18 149:6 151:7 151:8 152:17 153:25 154:15 155:9 157:11,17 159:3,5,8 163:17,18 165:25 166:5 167:9 167:13,22,24 168:18 169:11,23 174:14 177:4 178:3 178:20 179:18 180:5,6,10,14,22 181:13,17 182:3 185:24 187:2,6 189:2,14 190:2,19 190:20 191:14,17 191:23 192:24 195:24 200:8 201:6	land 91:23 language 19:17 61:20 62:6,20 63:11 65:23 107:4,9 107:13 108:9 109:23 136:2	leading 68:14 leads 46:13 lease 199:22 leave 161:8 170:12 190:9 190:17 leaving 201:25 left 5:20 146:10 196:5 legal 1:23 19:17 20:5,11 20:19,21 21:18 23:17 28:3,4,8,16 28:23 29:3,5 30:20 35:20 36:10,23 37:11,20,21,23 38:14 39:5 41:13 42:10,13 43:18,20 43:22 44:8,10,11,14 44:22 45:4,10,13,14 45:17,18,19 46:3,20 49:21 50:14,18 51:22 52:10,25 53:6 53:7 54:18,20 55:10 55:23 56:19 57:22 58:6 59:16,22,23 67:18,23 68:10,13 69:16 70:3,12,13,20 70:21 72:6,7,11 75:17 85:24,25 86:8 87:5 88:13 91:4 120:8,12 126:11 136:18 138:6,16 144:2 172:10 177:23
knew 26:19		large 179:18 180:17	
Knight 150:16		Larry 48:9	
know 3:22 9:3 17:19 18:5 21:2,12 25:6 28:5 28:25 36:3 41:2 42:16,25 45:17 46:10 47:4,6,25 48:2,6 50:12 52:13 54:4,6,19 55:3 62:16 64:2,20 65:25 66:4,7,12 68:4,7,16 71:19 72:13 73:13 76:19,23 77:13,13 77:24 79:8 82:9,15 82:21 83:17 86:19 89:13,23,24 90:3 91:4 92:11 93:5 96:14 97:5,9 104:14 104:14 111:17	knowledge 58:18 119:15 121:7 122:17 known 192:19 knows 47:24 KPMG 9:24 115:22 125:19 125:24 128:15 129:7,13,15 136:23 138:20 140:7 KYC 61:15 65:16 69:7 70:6 73:23 78:17 81:14 116:12	Las 2:10 late 5:2 Lauderdale 2:11 laundering 13:6,8 31:19 32:23 33:12 66:5 78:18 79:22 83:8,25 86:23 87:10 88:6,8 122:2 174:4 law 13:6 58:19 85:5,7 86:10,12,17 87:23 93:25 131:3 Lawrence 145:16 146:2,4,6 laws 35:11,13,13,19,24 36:7,12 59:17 78:23 115:4 lawyer 131:2,4 lawyers 7:2 33:3 layman 189:9 191:3,23 laymen	
	L		
	L 1:8,8 2:10 3:2 204:2		

Len 125:6 145:25 194:24 197:4	78:11 82:8 86:22,22 100:21 114:12 140:13	76:19 78:16 83:4 86:20 88:20 89:13 97:17,24 99:2,25 104:13 106:18 108:7 112:20 117:20 118:14,20 119:24 149:12,23 151:8 152:24 153:3 153:9 159:11 163:25 172:24 177:4 179:15 181:17 182:8 185:12,16 192:7 194:10 199:2 200:3 200:9 201:2	107:21 127:15 138:24 143:24
lengthy 74:22	listen 120:25		man 191:18 193:3
let's 22:19,25 27:21 35:15 46:6 79:4 106:18 135:17 143:7 155:10 157:9 170:8 189:2,2 190:24	listing 38:18 82:6 93:14		management 18:20,22 19:7,12,24 20:15 21:13,16 22:7 25:6 27:11 67:6 68:7 69:4,13,18 70:19 150:13 156:11 187:25
letter 118:14,15 121:24 163:18 205:11	lists 148:17		
level 72:23 93:15,24 94:24	literature 176:3		manager 15:10
liability 182:21,23	litigation 9:20,25 10:10		managers 194:3
liable 63:7 67:7 184:11	little 57:16 74:11 75:11 95:5 143:3 201:3	looked 43:23 56:2 105:22	managing 14:5,9 24:20
limit 20:12 180:2,4,5 182:21	LLC 185:15	looking 17:24 33:6 40:22 51:19 54:9 61:13 66:3 111:3 125:3 160:2 176:13	mandated 91:15 93:18
limitations 110:6 111:4 192:13	LLP 2:13		mandatory 93:6
limited 6:23 13:25 97:16 98:15 125:23	local 93:7	looks 194:11	manner 76:7 131:11
limiting 105:21	locate 164:10	loop 57:18 88:19 89:9	March 1:12 8:5 206:19
line 35:25 49:4 74:21 109:10 197:21	located 150:19	lose 182:23	mark 8:3 98:7 129:23
lines 56:15	location 181:11	lot 56:25	marked 8:7 15:22 16:2 98:11 123:6,9 124:15 145:5
link 78:23 173:6	locations 181:15	lots 180:10	market 81:7 82:15 84:6 175:19 178:18
lira 182:22	logistic 181:2		Markets 14:20
list 12:2 16:9 75:24 77:24 89:14,15 90:7 92:8,8 113:12 173:24	logistics 92:15 186:18 188:11 191:15	M	marriage 206:16
listed 21:10 77:3,12,15	London 11:7 82:15 84:6 175:13	M 2:9,11 3:2	massive 12:25
	long 150:3 176:17	magazine 11:20 12:8 13:17	material 34:25 43:14 44:4,25 45:12,21 52:7 54:25 174:23
	longer 57:2	Magna 1:23	materials 5:9,10 50:22 56:9,12
	look 24:11,21 25:9 41:17 48:6 54:4 55:3,24 55:25 61:24 74:19	maintained 133:5	
		maker 71:24	
		making 28:11 34:14 59:13	

76:5,11 117:17 165:12 matter 20:22 45:13,14,17 46:20 50:15 53:11 72:9 132:4 138:16 144:2 177:15 206:17 matters 10:3 59:23 73:23 85:25 105:20 Max 1:8 2:20 4:18 5:12 75:7 168:12 189:16 mean 10:12 22:24 24:20 34:4,9 41:14 43:22 67:10 80:8 95:4 116:3 117:23 149:12 165:11,22 168:23 169:16 181:10,24 meaning 189:21 means 28:7,9 96:15 108:14 108:22 meant 134:6 meet 65:21 84:24 85:17 87:6 96:24 98:22 157:10 193:12 meeting 95:11 197:19 meetings 32:12 member 85:8 members 21:16 22:8 54:14 55:17 58:2 60:10 189:5 memorandum 124:13,22 205:18 mention	39:7 97:10 112:18 114:2,3 119:21 143:12 192:22 mentioned 10:7 11:14 20:11 22:8 23:12 25:17 30:2 37:8 42:17 46:22 52:17 55:6 69:23 71:4 73:21 81:10,20 83:2 86:20 87:2 88:7 89:17 96:13 97:20 99:18 100:2 106:21 108:21 111:24 113:2,6,18 114:5,13 116:15 128:15 139:10 140:19 144:6 151:22 152:17,19 153:19 154:9 175:9,23 177:13 178:5 180:18 184:14,25 187:7 190:17 192:12 194:4 196:19 197:4 mentioning 101:8 109:15 113:5 126:6 mentions 114:23 merchant 150:25 Mere 48:9 merits 40:23 message 197:13 messages 198:15,16 met 46:15 metadata 124:7 125:12 metal 11:4 13:12 33:2,13	82:11 84:3 92:12 174:17 178:22,25 metallurgy 174:9 metals 82:21 84:12,13 90:2 156:15,19 177:24 178:17 187:10 197:2 method 176:7 methodology 176:23 metric 179:5,15 180:19 181:8 182:20 191:16 Meyer 145:16 146:2,5,6,11 Meyer's 145:18 Miami 2:6 middle 132:14 million 182:22 mind 33:23 46:4 149:3 172:2,18 mindset 96:15 mine 8:21 106:8 175:19 178:17 minimize 41:21 minimum 188:17 mining 32:13 151:3 174:9 ministry 13:10 175:7 178:22 minor 174:13 minute	27:20 197:18 minutes 74:8 136:22 168:3 169:9 170:16,18 Mischaracterizes 190:8 misrepresentation 45:12 46:13 52:8 173:13 misrepresentations 35:2 43:14 44:5,25 45:22 missed 82:24 111:13 misstates 26:22 mistaken 133:25 134:3 169:22 misunderstanding 166:12 mobile 191:8 moment 15:19 197:16 money 174:4 month 182:18 months 13:22 200:18 motion 126:25 127:12,16 159:24 move 45:25 56:13 57:12 120:23 126:16 155:16 159:17 movement 77:22 91:22 moving 95:21 195:2 Mr.Schutzman 145:13 Multi 178:14 multiple
---	---	---	---

49:6 190:9	197:4	187:11 190:22	63:2,12,15,17 64:24
<hr/>	never	192:4,5 198:6,9,23	65:2,22 69:11 76:19
N	9:16 26:4 34:19	200:12 201:8	79:7 81:2,18 85:4
2:2 204:2 205:2	154:19,19,23 184:7	numbers	87:5,11 89:5,7,10
name	197:8	18:12,12 171:10	96:11,17,21 97:2
3:8,14 10:9,12 15:13	new	198:25 200:8,21	114:18 116:17,19
81:25 125:22	1:17 2:15,15 3:4 5:10	201:7,12,22	117:5 142:3,8
145:15,16,25	11:20 12:8,12 13:4	<hr/>	143:17
162:17 171:2	13:16,18 74:12	O	obligations
named	150:20 183:15	O	66:22,24 70:5,16
11:16 15:9 68:4	206:4,8	204:2	76:12 77:9 78:7,25
144:5	Newbury	object	79:15,19,21,24 80:2
names	149:15	35:25 59:12,19	86:9 94:4,7,13
82:5,7 162:15	news	130:16,21 154:11	95:17 97:11 112:18
narrow	11:22 12:6,16,20	194:14	142:19
40:25 51:2 111:5	35:4 125:24	objecting	obliged
135:21 160:17	newspaper	56:14	84:23 85:17 88:25
narrower	11:22 12:7	objection	96:5 101:12 110:3
99:9	night	4:25 5:7 7:5 17:15,19	obliges
narrowly	5:2	19:15 20:3,18 22:13	86:17
121:3	non-financial	26:21 28:15 30:14	Obtain
native	32:25 93:20	35:22 36:22 38:11	103:13
194:11	normal	39:18 40:15 41:3,10	obtained
natural	148:23	42:8 43:16 44:7,21	61:18
68:17	Notary	47:8 49:2 52:24	obviously
necessarily	1:17 3:4 204:22	53:17,24 54:2,17	16:12 40:23
16:19	206:7	58:5,14 60:12 61:9	occasion
necessary	note	62:9 63:4 67:17	124:6 125:11
5:5 8:10 9:2 75:14	92:11 159:17 188:12	111:10 130:24	occasions
need	noted	131:7 132:5 134:23	136:5
6:16 24:21 80:9	36:24 103:22	157:23 162:6 172:3	October
88:11 89:12,21	notes	172:22 173:18	103:14,20 104:7
90:20 106:4 115:9	168:4	174:11 175:2	109:5 147:10,20
116:7 118:7 119:23	number	176:25 188:4 190:5	195:12,16 196:2,24
130:4 168:19,20	10:23 11:3,12 13:15	190:6 194:9 195:10	OECD
169:11 170:15	17:17 21:11 32:11	196:7 197:10 198:3	80:24 83:3 84:9,11
190:4,22,25 191:3	32:15,21 77:25	198:4,12,22 199:13	113:23
195:4 200:7 202:11	80:11,12,15 82:12	200:2,24	OECD's
203:7	82:13 83:19,25 84:2	objections	82:19
needed	84:7,9 92:9 94:15	7:12 21:3 132:6	off-shoring
7:5 192:3	103:8,11,19 104:2,3	155:11 190:9	11:8
needs	106:10 112:22	objective	off-the-record
66:8,10 77:20 78:15	113:4,4,5 128:13	105:12	17:12 144:24 170:6
95:2 154:24 193:4	149:15 153:2,8	obligated	193:16 202:7
neither	155:7,20 175:11	115:5 116:6	offer
	183:22 185:19	obligation	53:15 90:18

offered 34:19 55:16 58:2 88:24	172:11 173:4 175:24 181:19 182:6,6 183:2,2 186:16 188:25	61:2 opining 71:17	20:12 39:3,20 53:2,5 53:18,21 54:3,17 57:6 58:13,17 60:24 117:11,15 138:12
offering 35:3 52:22 54:14,19 58:5,16,16 59:2,14 59:15,18 60:9,18,21 61:6 67:21 79:15 95:10 138:24 153:13	196:15 197:12 198:12,17 200:24 201:5 202:3	opinion 20:12 29:6 37:16,20 37:21,23,24 41:17 43:23 44:10 45:10 45:15,18,20,24 46:2 46:3,5,12 50:5 59:23 62:25 63:10 66:19 67:21 68:2,10 69:5,12,15 70:3,12 70:21 71:13 72:8,25 73:5 74:24 76:6 79:15 84:18,23 85:25 86:6,9 88:24 89:6 94:2,11 95:10 96:16,25 101:11,11 105:13,18 114:16 118:9 138:25 163:11 176:18,22	over-the-counter 31:11 overall 25:20 26:7 overhead 187:9 overkill 147:17 153:14,20 154:4,6,10 157:9,12 158:23 159:12 173:10 195:15 196:20 overlooking 79:5 oversee 150:18 151:18 owes 41:4 owned 91:8 owner 25:13,22 26:3,9 61:16 150:7 owners 189:4 ownership 104:10 187:4 owns 188:20
offers 79:16	Olas 2:10		
office 86:23 88:7 91:5 150:20	old 13:23		
officer 22:2,17,23 24:19 25:14,15 26:3,5 29:18 30:5,11,24 64:3 68:12 69:12,18 120:10 147:22,25 149:8,17,22 151:12 151:21,25 152:15 152:23 154:14,17	omissions 35:2		
officers 19:4,5,13 20:2,16 62:16 63:7 67:4,5 67:15,21 69:3 70:18 72:20 73:19 143:22	on-board 81:16		
official 23:24 154:19	once 11:6 29:3 69:16 70:17 88:21 92:21 111:16 136:17 143:19 198:8 202:13	opposed 77:9,11 169:7	
officially 154:20	ones 12:4 68:6 196:18,19	options 147:15 157:6 202:14	
officials 144:9	online 15:9 175:25	order 65:21 124:8 129:8 131:24 136:25 137:7 194:7 203:6,7	
okay 3:23 5:20 6:3 7:17 43:7 47:9 56:18 58:16 59:11,14 79:4 80:13 90:16,19 95:4 96:16 107:3 118:3 128:25 131:21 134:13 135:24 138:22 147:5 152:9 165:10 168:5,15 169:19 170:3,15	Ontario 26:2	organization 68:15 84:9	
	onus 81:21	origin 81:13 92:4,9	
	open 201:25	original 194:11	
	operating 147:22,25 149:8,17 149:22 150:16 151:12,21,25 152:8 152:14,22 154:13 154:16	originating 92:4	
	operational 150:13	OTC 31:10 33:16	
	operations 18:19,22 28:10 69:20 71:2 147:25 150:19 151:14,19	ought 8:17 67:21 99:14 110:9 111:8 112:12 142:24	
	opine 37:11 39:5 144:3	outcome 206:17	
	opined	outside	
			P
			P 2:2,2 p.m 1:13 197:22 203:9 packing 77:24 92:8 page 8:11 17:2 18:11 25:23 61:12 74:18 74:20,21 77:13 78:9 78:13,16 80:11,11

80:12,14 86:20 87:2 95:22 98:17 103:4,7 103:7,9,10,25 104:2 108:19 112:20 114:6 132:10,13,15 139:4 141:11 144:11 145:8 147:5 147:8 149:15 155:17 157:22 158:17 162:25 163:24 164:8,25 169:24 202:15 205:4,11 pages 8:12,13 78:5 paid 165:6 171:16 paper 11:24 14:19,23 98:2 148:8 182:5,13,19 182:24 186:6,10 191:12 192:17 193:5 paragraph 18:12,13 19:3 61:13 95:22 99:20 101:25 102:3,5 104:17 105:6,24 106:11,20 106:24 107:6 108:2 108:20 109:2,5,8,10 109:11,18 112:5 113:8 132:15 150:22 151:4 169:25 paragraphs 104:9 106:12 paralegal 203:8 parenthetical 108:13 Park 2:16 149:16 part 9:24 10:13 31:3 34:23 38:16,18 40:18 41:16 55:7	65:25 66:16 67:2 68:13 71:18 76:21 77:19 81:14 83:20 84:18,22 92:18 102:13 105:3 108:7 116:10 140:24 141:25 142:4 143:12 participate 50:18 51:21 71:23 72:17 participated 32:14 35:6 36:20 37:6,17 38:2,9,22 39:6,15,25 40:12 41:8 42:6 50:17 51:21 54:7 59:2 60:9 72:3,18 124:9 125:13 participating 49:25 57:10 96:14 143:23 144:8 participation 46:23 47:21 48:24 49:18,22 50:7,13 51:8,23 particular 47:2 48:16,17 56:2 58:8 60:22 81:13 100:24 112:4 135:14 146:18 159:3 173:22 179:23 181:8 182:15 183:8 184:24 190:3,4 196:23 197:9 199:10 particularly 51:14 parties 79:22 85:20 106:23 114:21,25 115:9,25 133:21 206:15 partner 189:12 partners	126:14 137:5 parts 27:5 87:19 141:6 party 17:20 72:14 91:20 92:14,15 95:3 116:4 passage 79:18 passed 195:6 paste 194:12 pasted 75:25 paying 4:9 payment 166:5 PC 40:17 people 32:12 67:4 68:14 69:19 72:19 73:19 120:18,20 128:14 161:4 189:20 192:19 195:18 percent 26:9 percentage 199:10,22 perfect 202:3 perform 19:6 76:17 79:2 81:22 84:16 85:14 132:17,23 133:9 134:10,16 135:7 142:3,18 157:13 177:16 performed 65:25 67:12 71:3 77:20 83:12 93:16 99:18,25 105:19 106:17 176:2 177:19 192:3 performing	94:12 period 23:7 31:18 188:16 periodically 188:15,17 permission 155:21 156:3,22,25 157:20 158:4,15 159:9 160:12 161:14,21 162:3,13 162:17 perpetrated 31:5 37:5 person 7:22 25:19 26:7 27:4 27:24 28:2,7,14,23 71:10,14 72:10 73:5 93:18 119:23 146:20 160:16,18 160:19 186:2 personal 6:18 15:14 personally 10:4 63:7 177:16,19 191:17 persons 189:5 perspective 120:13 172:10 175:5 phones 191:8 phrase 64:11 84:21 physical 61:17 62:3 66:11,14 71:21 76:25 81:5 91:10 92:22 94:21 94:25,25 98:5 100:5 113:21,25 114:11 115:18 133:3 143:9 155:21 156:3,6,15 156:18,19,22 157:13,20 158:5,16 159:4 161:14,21 162:4,13 163:11 174:9,25 175:17
---	--	--	---

177:9,17,20 178:12 179:21 180:13 188:7,8,18 192:18 192:25 196:25 physically 116:3 179:8 191:5,19 192:9 piece 98:2 182:5,13,19,24 186:6,9 191:11 192:17 193:5 place 143:15 204:11 places 181:16 plain 49:8 Plaintiff 1:4 2:4 plane 191:19 platform 151:2 please 3:8 4:10 42:15 74:7 78:13 80:14 112:9 124:11 127:12 139:13 143:5 147:6 162:9 163:25 183:14 192:7 198:4 199:5 200:6 201:2 plus 178:21 180:20 200:18 point 9:12 13:24 30:20 32:8 39:5 44:17 49:21 50:12,14 55:10 69:3,4,17 72:11 77:7 78:4 80:15 94:15 101:5 103:11,19,19 104:2 106:10 112:9,13 113:4,4,5 140:3,4,8 145:13 154:16 159:23 164:2,24	168:9 169:24 183:22 197:24 202:5 pointed 110:5 pointing 106:6 155:5 policies 31:13 32:2 policy 18:17,24 91:21 178:16 politically 93:17 portion 8:24 18:15 52:11 74:20,22 77:7 86:16 89:4 100:11 106:3 112:10 155:19 portions 16:13 112:14 posed 21:5 position 23:18,23 24:10,16,21 25:6,7,18 26:15,25 27:15 64:5 88:16 138:13 151:10 153:9 154:20 161:20 162:2 positions 22:15 30:4 161:9 possession 91:6 possible 159:11 potential 32:12 44:5 pounds 180:21 powers 18:15 19:6 practic 178:4 practical 180:23	practice 93:3 96:22 175:14 178:7 187:5 practices 75:10 96:19 97:3 precious 11:4 13:12 33:2,13 82:11,21 84:2,11,12 90:2 174:17 177:24 178:17,22,25 187:10 prefer 139:16 160:9 premise 161:23 preparation 10:8 16:24 42:4 171:13 prepare 33:18 171:9 176:18 prepared 19:11,21 21:22,24 23:4 26:18 27:6 29:23 31:19 55:13 preparing 10:7 16:5,18 18:4 28:12 38:7 39:12 40:10 41:6 43:11 46:21 52:19 53:13 57:24 60:5 117:18 176:22 PRESENT 2:17 presented 133:13 135:9 136:4 138:2 139:4,8,23 141:12 171:25 172:21 presenting 56:6 preserved 7:6 preserving 7:11 president 14:22	presides 178:16 press 35:5,6 46:8,22,24 47:2,14,18,22 48:25 49:19 50:8 51:9,18 51:25 presuming 149:24 pretty 167:25 prevents 49:11 previous 21:9 previously 41:15 79:18 165:2 Price 14:5,12 PricewaterhouseC... 14:24 15:4 PricewaterhouseC... 15:13 PricewaterhouseC... 9:23 11:7 14:8 primarily 10:25 primary 173:5 174:7 principal 148:4 principals 75:2 printed 145:25 prior 92:23 145:7 184:5 pro 2:19,20 5:13 171:6 probably 162:19 169:3 procedure 97:17,20,23 105:6,16 110:12,14 135:15 191:24 192:8 procedures
--	---	---	---

31:13 63:22 67:8,12 81:15 84:5,17 98:25 100:25 101:17 102:3,7 104:23 105:19 106:16 107:7 111:18,23 117:14 132:18,23 132:24 133:9 134:10,16 135:8 163:3 proceed 127:16 132:9 135:25 148:22 159:15 161:7 193:2 proceeds 83:13 process 46:14 57:11 66:2,17 76:16 77:2 92:18 111:23 116:10 126:19 129:22 137:8 143:24 163:4 164:21 175:12,19 176:21 177:3,9 processes 75:14 155:23 procured 91:14 164:22 165:5 Procurement 123:18 produced 11:23 36:14 76:2 165:23 166:9 167:8 167:13,19,21 172:6 172:8 181:11 188:22 producing 10:3 17:20 187:19 product 90:24 production 5:2 productive 160:5 products 90:22	professional 173:24 professions 32:25 profile 177:22 project 14:5 15:10 proper 57:8 90:5 129:9 properly 103:22 properties 174:25 proposal 200:15,15 proposals 122:19 proposed 121:24,25 122:9 proposing 122:10 propriety 76:7 prove 30:19 130:18 155:8 proves 138:5 provide 17:18 28:16 29:5 37:21 42:9 43:22 79:11 171:22 183:23 184:16 provide/explain 75:14 provided 21:14 23:23 37:14 50:4 89:15 119:25 122:20 156:16 159:6 166:18 167:16 178:8 181:6 184:18 197:2 providing 9:25 29:7 31:15 38:14 43:20 59:21 122:24 127:9	131:17 proving 131:4 provision 86:17 87:4,23 provisions 103:6,12 104:5 106:7 public 1:17 3:4 35:5 52:23 53:16 54:15 55:17 58:3 60:11,18 105:10 111:21 114:8 176:4 204:22 206:7 publication 11:15 publications 12:3 publicly 137:7 published 10:24 11:15 12:3,9 12:20 13:16 14:3,7 15:6,7 pull 15:21 98:7 129:4 131:13 148:19 153:6 183:20 pulled 118:18 145:4 pump 31:6 36:20 37:6,18 38:2,10,23 39:7,16 40:2,13 41:9 42:7 42:22 purchase 66:13 75:6 91:16 purely 71:25 102:19 185:20 purity 61:18 81:6 92:10 purportedly 75:4 purpose 3:20 36:24 94:20 163:16	purposes 3:18 6:6,14,22 7:15 8:3 84:22 123:7 141:10 145:5 202:10 pursuant 101:20 102:10,16,25 104:25 107:11 pursue 22:17 46:4 put 15:18 17:14 43:2 47:14 53:9 71:6 123:5 131:6 146:13 148:23 155:7 162:15 169:13 180:10 182:23 186:4,5 192:13 putting 37:22 57:20,21 60:7 116:18 117:4 130:23 <hr/> Q <hr/> qualification 174:14 175:5,22 qualified 173:25 qualifies 59:18 qualifying 45:25 quantity 180:19 QUEENS 206:5 question 8:18 16:4,16 17:23 17:25 19:10,20 20:9 20:10 22:14,23 23:2 24:24 27:12 28:4 29:17 30:23 34:11 35:10,25 36:9 39:2 39:11,21,22 40:5,7 40:25 41:12,22 42:25 43:8,10 44:14
---	--	---	--

45:20 47:5,10,15,24 48:3,20,22 49:12,13 50:10,13,23,25 51:10 52:7,21,25 53:7,11,20,22 54:24 55:8,13,15 56:7,8 57:22,25 58:25 59:7 59:9,21 60:4,15 61:4 64:4,22 70:7 88:21 95:8,8,16 99:9,10 107:5 109:24 110:6,14,18 111:5,11 112:8 113:15 116:5,16,18 116:19 117:4,5 118:2,16,23 119:2 120:8,11,12,24 121:2,16 123:15 124:18 126:12,25 127:8,10 128:4,5,10 128:24 129:4,11,18 129:21 130:5,6 131:16 134:5,20 135:21,23 137:10 138:6,7 139:8,18 140:18,22,25 141:19 142:14 143:3,8,21 145:20 146:8,17,23 148:16 148:20 152:3,14,25 153:6,13,23 155:23 156:23 157:14,15 157:25 158:6,8,10 158:11,13,15,19 159:20,22 160:7,13 160:15,17 161:7,18 161:23 166:3,15 169:10 171:8 180:8 183:16 189:18 190:14 194:15,17 194:18 198:14 199:17 201:4,24 questioning 4:13,20 5:4,14 13:24 49:5 55:21 129:23 132:9 147:2 164:20	201:16,17,19 questions 3:18,21 5:23 16:22 21:5 29:22 33:21 56:5,15 57:5,8,15 61:5 65:15 73:22,25 116:12 126:20,21 127:5 130:20 131:3 131:11 136:14 141:3 148:24 168:18 169:4 170:11,16 171:4 190:20 201:11,20 quickly 4:24 127:22 quoted 143:25 <hr/> R R 2:2 204:2 206:2 R.J 1:7 2:14 raised 156:10 168:19 190:20 raises 155:23 raising 134:21 153:13 Rapoport 2:9,11 4:21,22 127:21 131:22 132:2 154:22 155:2 168:8 rate 171:19,21 RBP 151:3 re-ask 57:19 60:3 140:18 reach 19:16 41:13 42:13 reached 192:21 read	17:2 26:23 62:6,21 65:23 74:22 90:12 90:14 103:20 104:3 104:7 105:25 107:15 108:4,9 109:6 127:24 134:17 135:3,4,17 135:19 reading 101:24 108:3,12 135:2 readings 109:23 reads 18:15 ready 170:17 193:14 197:17 real 33:2 188:2 really 57:13 127:22 147:14 157:5 161:6 reason 5:22 38:4 138:23 reasonable 13:15 reasons 49:13 95:14,19,20 141:2 151:20 recall 12:5 16:22 18:2,5 24:12,25 25:8 38:6 56:11 59:4 121:18 129:25 138:11 140:25 145:12 151:7 152:17 153:11,24 162:16 178:20 196:3,4,17 198:16 200:7,12,13 recalls 49:17 receipt 92:12 95:25 99:5,23 100:17 101:5,14,21 102:11,17,19,22,25	105:15 113:3 126:2 181:23 182:12 183:4,7 184:23 185:13 186:13 received 26:10 101:4 103:15 164:5,13,19 166:19 166:25 189:6,20 receiving 75:5 184:2 recess 74:15 145:2 170:22 recognize 8:19,21 75:20 107:8 124:18,20 195:20 197:25 recognized 180:2 recollect 17:3 recollection 12:18 152:20 reconvene 170:19 record 3:9,19 4:2,11 6:2,21 17:11,15 82:2 90:14 127:25 128:25 131:7 132:7 139:15 140:15 144:22 145:14 146:10 154:24 155:6 159:18 160:2 161:10 170:5,9 191:9 202:6 206:12 records 133:4 167:18 red 133:13,22 135:9 136:3,10,12 138:2 139:3,23 140:9,11 140:17 141:12,21 142:6,11,20 143:13 143:18 155:22 162:19 189:23,25 193:2
--	---	---	---

redundancy 41:22 160:9	refused 156:17 163:8 192:22	128:4 173:5 206:14	70:7 83:6 88:21 111:17 166:14
refer 47:3 51:4 122:8 131:14 140:3 156:21 173:21 176:15	regard 22:6 33:9,11,24 34:12 61:5 190:3	relates 172:2,19	repeatedly 38:12 56:17
reference 131:17 149:9 198:24	regarded 39:13 41:7 42:5 43:13 44:3 60:6	relating 126:13	repeating 41:14
referenced 5:10 78:6	regarding 34:20 42:10 44:21 47:14 58:18 115:14 173:8,9 200:25	relationship 7:7 92:24 195:2,9	rephrase 19:19 41:22 67:19 143:4
references 8:23	regardless 19:23 42:2	release 47:2,14,18 50:2 51:18	report 5:11 8:5,6,19,20,22 9:4 10:9,15,17 14:9 14:15 15:5,7,12,14 15:14,18 16:6,18,25 18:4 19:11,22 20:13 20:17 21:14,22,25 23:5 26:18 27:6 28:13 29:4,23 30:19 31:2 34:22 36:4,15 36:18,25 37:2,9,14 37:16,24 38:5,7,13 38:17 39:8,13,19 40:10,19 41:6 42:5 42:17 43:12 45:16 46:22 49:4,7,8,23 50:3,15 52:11,20 53:3,10,14 55:6,8 57:24 58:20 60:5 61:12 63:25 66:20 73:21 74:18,20 75:24 76:4 77:4,8 78:10 80:10 82:9 85:25 86:16 87:22 88:15 89:4 91:12 94:16 95:22 97:7,8 97:18,19 98:4,11,14 98:22 99:2,3,7,11 99:13,16,17 100:3 100:18 101:10 103:8 104:13 106:2 106:25 107:24 109:14,21 110:2,5,7 110:9 111:4,7,8 112:10,11,18 113:19 114:2,6,20 114:22 117:8,18,21
referred 27:22 116:22 137:16 152:6 157:21 158:17	regards 111:25	releases 35:5 46:8,22,25 47:23 48:25 49:20 50:9 51:9,25	
referring 8:25 9:4 31:22 61:22 80:17 87:14 97:7,12 100:12 128:2,9 129:14 130:7 133:18 137:11,18 138:13 140:15 148:7,9 157:4 196:18	registered 149:19,20	relevant 18:23 22:3 30:25 55:4 56:3 116:12 138:25 176:13 177:15	
refers 31:7 52:11	regulated 83:23 93:21	relied 8:15 23:20 26:14 27:12,15 48:15 76:4 76:6,11 89:16 96:10 99:6 114:14 142:21 151:16	
refineries 174:20 175:7,8,11 177:24 180:11 187:8	regulation 83:10,11 87:13,25	relief 21:8 25:11,24 30:8 65:6	
refiners 82:16	regulations 32:17 33:7 66:6 77:14,17 78:14,19 78:23,25 79:23 80:5 80:22 81:20 82:10 82:12,13 83:5,7,18 83:25 84:14,25 85:6 85:11,12,13,18,22 86:18,25 88:6,12 89:15,17,20,22 93:11,12,21 113:13 115:2,9 175:16 176:9,10	rely 23:25 64:23 65:8 70:3,14 87:4 115:8 141:8 176:11 187:17 191:11 193:5	
refinery 177:6	regulators 84:3	relying 5:3 59:22 79:6 192:3	
refining 178:18	regulatory 32:16 75:18 115:10 116:8,9 191:10	remember 11:11 12:10,21 13:20 25:15 48:7 50:6,10 50:16 131:21 138:11	
reflect 37:3 82:3 188:24	relate 174:24	remotely 7:22	
reflected 188:19	related 46:25 47:23 48:25 49:20 50:9 51:9,12 55:5 57:13 75:4,13	render 74:24	
reflection 185:23		repeat	
reflects 160:21			

118:5,19,24,25 119:2,8,9,18,20,22 120:13,15,21 121:22 122:3,8 128:8 130:2 132:12 132:12 133:2,25 139:5,21 140:4 141:7 142:2 146:15 147:6,8 155:18 157:22 158:17 161:12,17,19,24 162:2,12,16,25 163:25 167:14 169:12,18 171:10 171:14 173:4,10,23 175:23,24 177:14 179:4 180:18 188:9 192:14 205:13,15	requested 17:17 156:7 184:22 186:3 requesting 129:7,15 requests 142:20 require 20:21 26:12 30:3 36:9 41:12 42:13,19 66:6 79:23 137:13 165:4 required 37:10 39:5 41:16 43:17 46:15 58:8,11 62:13 63:25 76:22 77:17 78:2 80:21,22 85:14 93:24 113:20 116:14 184:16 requirement 12:24,25 36:16 76:20 76:21 80:23 91:15 191:10 requirements 13:5 20:5 75:18 80:24 81:19 84:24 85:22 93:10 114:5 116:8,10 177:10 requires 19:16 20:19 28:15,20 29:3 44:10,13 53:6 58:18 83:12 84:4,15 175:16 178:11 requiring 20:4 research 32:18 176:2,16 researching 171:12 reservation 4:25 reserve 5:4,13,18 29:6 193:11 201:19 reserved 19:13,25 20:16	reside 3:11 resident 26:2 149:15 resolve 127:3 resources 33:23 respect 5:11 14:20 20:6 51:23 52:7 65:16 70:5 73:25 74:2 95:13 96:24 123:2 139:8 198:23 Respectfully 120:22 respond 131:8 132:7 201:14 responding 14:19 responds 197:18 response 120:23 140:20,24 143:18 159:17 responsibilities 37:12 62:11 63:23 66:21 69:2 71:7 86:13 114:25 136:19 137:15 150:4 152:8 responsibility 42:19 63:19 70:10 73:3 76:22 86:5 94:6,12 95:11,16 101:16 responsible 18:20 62:7 67:5,7,15 68:5,6,7,15 69:21 71:11 72:20 77:15 78:17 80:25 82:20 84:12 85:21 115:2 120:19 147:24 151:13 175:15 177:5 responsive	127:14 129:17,21 135:23 145:22 160:7 restate 22:25 40:7 restricted 88:9 167:6 rests 108:6 result 142:7 resume 74:11 202:2 retain 129:7 retained 35:23 36:24 56:21 117:19 119:17 121:9,13 retains 97:4 retention 57:6 59:7,8 return 68:23 109:24 Returning 5:20 reveal 122:18 reveals 145:14 review 16:5 36:17 105:12 108:24 119:13 121:5 122:18 125:12 155:13 168:3 175:17 176:3 reviewed 8:15 16:17,22 18:3 23:13 24:6 26:16 89:16 113:7 117:18 153:2 165:13,20 166:13 175:11 187:7 reviewing 18:6 39:12 166:23
--	---	--	---

171:13 173:4 reviews 174:20 175:21 178:13 revisit 111:3 revolve 83:5 Ricky 101:5 right 5:14 7:12 10:19 20:8 24:14 27:8 34:20 37:19 39:10 45:9,16 56:7 60:3 62:2 63:3 63:22 64:11 66:9 72:10,13,23 80:6,16 81:19 82:4 84:25 85:2 86:2 87:3,17 88:4 89:18 90:22 96:6 97:6 100:19 101:14,23 102:14 102:21 103:3 105:4 107:13,18 108:17 108:18,19 109:22 111:19 112:7 113:18 115:20,21 116:16 118:25 119:19,23 120:14 123:20,21 125:8 129:25 130:7 132:20 138:4,16,19 142:3,6,6 145:6 148:25 153:23 156:8 159:16 160:12 162:10,22 164:23 165:24 171:18 172:17 181:16 182:11,22 184:4 186:21,24 187:22 189:8 191:11 193:14 195:12 198:11 200:17 201:10 rights 5:18 29:6 104:10	109:12 193:12 201:19 Rivka 1:16 206:7,23 RJC 175:12 RJV 178:5 road 155:10 role 30:6 37:11 62:10 65:13 86:4,6 147:19 147:23 148:21 150:5,23 151:12,24 152:5,19 roles 148:3 150:4 Ronggolawe 164:5,12 166:20 Ronggolawe's 165:14 roster 82:6 rough 203:7 round 171:10 Royal 175:12 RTC 175:13 rug 47:12 rules 75:23 78:10 96:2 running 68:5 <hr/> S <hr/> S 2:2 3:2 205:6 Safe 99:4,22 100:16 101:4 101:13,21 102:11 102:16,19,22,25	105:14 113:3 125:25 181:23 182:11 183:4,7 184:23 185:13 186:12 safekeeping 95:25 safely 179:10,13 safety 185:17 Sales 123:18 sanction 122:11 sanctions 93:17 Sanders 101:6 sat 7:20 satisfied 46:18 satisfies 75:17 satisfy 83:17 85:18,21 116:7 saw 29:9 38:20 39:13 41:6 44:15 47:20 49:17 50:7 51:7 53:22 54:13,24 55:14 56:9 58:12,15 58:23 59:13 60:17 153:25 181:6 197:8 saying 23:19 26:24 27:23 44:9 45:23 46:2 48:18 50:20 55:3,19 55:20 56:17 63:10 63:14 64:8,25 70:4 70:9 71:6,15 72:6,8 72:18 73:8 85:3 88:23 89:10 98:25 104:16 105:2 108:9 109:17 116:23	128:21 133:25 134:6,12 137:20 141:8 142:4,8 151:16,17 154:13 155:14 157:12 159:4 160:8,11,23 164:16 165:12,17 165:17,20 166:12 185:8,21 186:12,13 194:23 196:24 197:8 201:6,16 says 18:16 19:5 25:18 27:3,19 30:16 38:16 74:23 99:13,21 100:14,15 101:2,17 102:3,23 103:13,23 106:4 107:6,9 109:11 110:9 111:8 111:19 112:12,20 117:8 130:3 132:15 133:12 134:2,11 145:6 146:4 149:14 153:22 157:4 158:22 159:11 181:11,18 185:15 187:17,19 191:12 195:6 196:22 197:15 schedule 183:19,22 184:13,20 scheme 31:6 35:7 36:21 37:7 37:18 38:3,10,23 39:7,16 40:2,13 41:9 42:7,23 SCHLAM 2:13 Schutzman 119:9,21 124:2 125:6 146:2,21 194:24 197:5 Schutzman's 145:15 science 174:24
--	---	---	--

scope 18:18 29:5 30:2 36:5 36:14 37:10,13 38:13 39:3,19,20,22 40:6,19 41:16,20,25 42:3,19,24 43:4 44:11 45:7 46:14 49:3,7 50:19,21,25 51:3,19 53:3,5,10 53:18,21 54:3,8,17 55:22 56:4,18 57:6 57:20 58:13,17 59:6 59:8 60:24 61:4 62:12 64:7 65:12 70:20 73:11 99:2 100:18 101:16 104:15,21 105:21 110:6 117:11,15 119:4 121:11 124:10 125:15 137:12,13 166:22 192:7 199:20	31:14 34:23 38:17 39:8 42:18 43:5 46:19 65:5 69:22 70:25 73:8 76:2 120:17 149:14 166:25 167:9,12,21 167:22 171:19,21 172:9,11,17 181:6 196:6 197:24 199:25 200:19 203:6 SEC's 5:2 7:3 17:15 37:4 42:17 43:2,24 71:9 71:25 73:15 140:14 151:23 second 17:11 53:10 74:21 110:15 127:7 132:16 135:6 170:5 189:3 191:10 195:25 section 25:12,25 30:7 38:15 sections 107:25 sector 10:25,25 11:4,18 13:5,13 33:2,3,13 33:14 75:11,19 83:5 83:6 89:20 90:2 174:17 177:5 178:17,23,25 sectors 93:19 secure 46:10 185:18 securities 1:3 2:4,5 35:11,12,14 35:19,24 36:6,12,16 56:20 58:19 59:17 60:20 150:17 security 147:16 157:8 see 8:12 16:8,9 17:8	21:19 23:14 24:7,17 25:10 29:14,16,20 36:19 39:4,23 40:10 41:3 42:3 43:12 44:2,19 46:23 49:10 49:22 50:22 51:2,5 52:20 53:12 57:24 59:3,4,10 60:5 61:20 65:4 67:4 70:17 73:9 77:13 78:13 79:8,8 80:14 86:25 90:19 94:18 97:8 98:16,24 99:15 99:16 100:14 101:23 105:5 106:13 107:12 108:18 109:5,9 111:18 112:15 117:21 118:25 119:7,25 122:3,14 123:24 125:4,16 126:4 128:18,19 129:16 134:14 137:6 138:5,9,10 141:25 145:24 148:9 149:13 153:6 153:7 155:13 156:6 157:2 164:7 173:2 177:21 181:10 182:21 183:18,21 185:13,14 190:25 191:5 193:20 194:13 195:11,19 196:6 197:23 198:6 198:21 199:2,12,15 seeing 38:6 56:11 72:2 121:18 148:5 153:11 193:18 198:16 200:12,13 seen 24:13 25:2,5 51:12 51:14 98:8,18 115:20 123:12,16 126:4,5 129:11,19 136:21 144:7	159:10 171:23 179:19 180:5,11 184:5 197:25 sees 201:7 seller 76:17 77:10,12 78:3 80:18 81:3,4,17 83:13 85:15,20 114:17 116:17,19 117:6 seller's 115:13 117:7 sellers 79:20,24 84:16 selling 35:4 191:7 send 197:22,24 sending 48:14 senior 22:7 25:6 68:7 69:4 69:13,18 70:18 sense 6:23 7:8 191:11 sensitive 183:24 184:4 185:4,5 sent 51:17 116:11 153:21 187:24 193:18 195:24 196:5 197:20 199:8 sentence 90:13 100:15 104:22 133:11,12 134:17 134:18 135:3 sentences 135:4 separately 22:18 202:12 September 149:18 sequence 101:8 series
---	--	---	---

35:4 76:3	136:20 161:16	91:5 101:20 102:10	25:14 26:3
serious	169:12 172:5,7,13	102:24 103:16,21	somebody
189:13	172:25 173:17	104:5,25 107:11	140:9 151:13
served	188:2 195:22	108:6 115:12 123:9	sorry
9:20	201:21	123:19 124:4,14,23	3:25 34:21 82:23
serves	showed	125:8 126:3 132:18	88:21 90:11,17
173:11	146:18	132:20,24 133:4,10	100:7 101:24
service	shown	133:13,16,18,22	107:14 112:15
184:17	126:7 131:20 172:16	134:11,11,14,17,19	127:19,20 129:24
services	199:24	135:8,9,14,15,18	132:21 139:10
1:23 9:25 163:8	shows	137:3,6 138:2	144:17 156:5
183:21,24 185:15	137:9 172:19	139:24 140:10	160:13 161:16
186:7,20	side	141:12 142:25	172:12 177:18
session	115:13 117:7	181:7 187:23 189:6	200:15,20
6:14,22 15:23	signature	189:12 205:16,19	sort
set	145:18 146:3,4,7	sir	27:3 53:8 202:11
31:11 33:17 168:24	147:4	70:7 110:22 130:10	sought
206:11,18	signatures	134:4,4,20	147:3
seven-story	103:23	sit	sounds
150:20	signed	24:12,25 49:17 62:24	63:14 144:18
Seventy-five	106:23 118:15	119:15 121:7	source
171:15	121:18 123:24	122:16	66:9,9 77:8 81:12
share	124:3 125:4,7	six	83:14 91:13 164:22
193:8	145:12 146:12,20	13:11,22	sourced
shared	significance	skills	76:24 83:18
21:20 24:4 27:16	40:3	178:12	sources
30:21 167:21,22	significant	SKR	79:6,14 151:6 153:7
184:18	30:17,22 147:15	97:25 98:2 99:5	175:25 176:8,11,14
sharing	157:7	104:25 107:11	sourcing
193:8	signing	112:22 116:3 128:7	76:22 80:25 82:21
sheet	164:6,13 166:20	147:12 157:4	84:12 175:15 177:5
188:21	similar	181:10,21,24 182:2	SOUTHERN
ship	10:3	182:13,25 183:2	1:2
109:12	simple	185:6,8,9,12,12,22	space
shipment	39:2 162:8	185:23 187:2,23	33:5 179:6
81:11 188:13	simplify	188:3,6,23 190:4	speak
shipments	112:7	191:13 192:4	76:11 157:9 197:16
46:9	simply	SKRs	speaking
short	44:15 49:16 56:8	187:12	6:25 194:6
74:15 145:2 170:22	67:2	sky	specialization
shortly	single	40:18,21	174:16
68:20	179:23 181:3,18	slower	specialize
show	SION	201:3	174:14
8:17 17:4 24:23	61:16 62:2,4 66:3	social	specializes
48:14,17 117:24	73:18 75:8 80:17	76:21	163:7
119:14 121:6 131:4	85:16 88:11 90:23	sole	specializing

32:20 174:3,16 specific 16:19,21 21:13,21 24:16 35:13,16 37:9 41:18 47:3,14,18 48:12 49:4 54:6 55:7 84:3 107:25 108:2 142:19 152:13 173:11,16 178:2 specifically 24:23 37:13 51:16 54:4,12 74:23 78:4 82:10 84:15 85:7 86:19 129:6 130:23 173:9 182:25 186:17 specified 25:12 204:11 specifies 107:16 spend 57:4 spending 56:25 spent 171:11 Springs 3:12 SS 206:4 stacked 179:8,11,14,17,23 180:9,14,16 stacking 180:2,4,5 staff 184:6,8 stamp 17:16 194:13,20 standard 79:12 96:19 163:3 176:23 standards 12:23 46:15 49:23 54:5 75:9,23 76:10	76:25 78:6,10 84:7 87:6,9,10,15,24 88:17,25 89:7,9,11 95:12 96:2,6,22 97:3,6,11,15 98:21 99:13 100:2,3,21,22 105:8 108:22 110:3 110:8 111:7,15,20 111:22 112:2,11 113:10,23,23,24 114:7,13,19 115:15 116:20 117:8,14 130:12 173:15 177:7,8,11,12 stands 161:9 start 16:4 22:19 23:2 35:15 108:2 155:5 168:22 183:15 202:2 state 1:17 3:4,8 60:17 80:12 90:10 147:9 158:14 173:25 206:4,8 stated 23:15 30:21 139:4 185:18 statement 62:19 82:24 104:21 121:25 122:7,10 141:11,22,24 151:16 153:16,18 154:7,8 155:8 170:9 statements 91:7 136:16 states 1:2 10:17 105:24 106:5,25 110:5 182:10 184:14 stating 25:3 125:21 126:14 182:3 status 30:12	stay 106:7 step 90:20 135:15 137:8 Stephen 1:8 75:3 147:10 steps 66:6 67:22 77:20 99:24 100:4,6 101:9 142:12 143:14 Steve 4:17 5:17 130:14 148:15 150:2,15 151:5 152:7 153:22 154:6,22 163:20 168:11 169:7 171:2 STEVEN 2:19 stock 191:2,8 STONE 2:13 stop 110:15 134:24 160:8 160:24 stopped 140:9 storage 66:13 91:17 174:25 180:24 store 180:23 181:3 184:4 stored 181:7,15 183:25 188:16 storing 91:20 179:5 182:19 184:3 strategic 18:24 Street 3:12 stricter 80:6 strike 120:23 126:17 127:2	127:12 159:17,25 structure 151:3 sub 38:16 subject 12:18,22 13:10 30:11 36:4 44:20 45:9,16 45:24 51:7 53:14 58:12 60:7,8 68:22 69:15 73:23 76:7 114:17 137:22 141:4,17 165:19 166:14,18 subjects 87:23 submit 122:7 129:17 Subscribed 204:18 subsequently 181:13 184:22 subsidiaries 18:23 substance 153:15 154:3 suggest 168:11 173:15 179:4 suggesting 119:16 146:10 Suite 2:5 Sum 2:6 3:25 4:5 5:8 6:10 6:16,25 7:16 17:6 17:14 19:15 20:3,18 20:24 22:13 26:21 28:15 30:14 35:21 36:22 38:11 39:18 40:14 41:10 42:8 43:16 44:7,21 47:8 48:2 49:2 52:24 53:17,24 54:16 56:14 58:4,14 59:11 60:12 61:9 62:9 63:4 67:17,23 68:16
--	---	---	---

74:8,13 110:15 111:10 127:7,19 131:6,23 134:23 144:12,15,18,23 155:4 157:23 161:2 162:6 168:5,15,22 169:16,20 170:19 172:3,12,22 173:18 174:11 175:2 176:25 183:12 188:4 190:5,13 194:9 195:10 196:7 196:11 197:10 198:3,12,22 199:13 200:2,24 201:15,23 202:5,9 203:6	3:3 7:21 204:5,18 206:11 <hr/> T <hr/> T 204:2 205:6 206:2,2 tab 145:6 take 4:16,19 6:3 57:2 68:19 72:5 74:6,10 79:4 90:18 96:3 144:14,16 161:19 162:2 168:3 170:17 171:9 176:17 taken 4:13 43:25 67:22 74:16 142:11,11 143:15 145:3 170:23 186:21 talk 27:20,21 76:23,25 82:10 85:7 127:25 136:2 176:15 182:14 183:20 talked 95:15 130:2 136:5 192:5 talking 22:15 41:19 64:14 71:8 82:4 122:13 126:13 127:23 136:2 139:19 163:19 171:5 179:16 180:6 183:13 192:2 195:25 talks 78:13,16,22 81:21 103:17 109:18 122:5 125:21,23,25 126:9 129:6 130:9 136:24 137:2 148:2 150:3 151:5 152:7 152:19 195:14 Task	83:21,22 85:9 tasked 54:4 68:10 113:14,17 114:9,11,15 tasks 112:25 tax 12:22 174:4 team 14:14 22:8 33:5 50:18 148:18 178:16 teams 150:13,14 techniques 11:9 telemetry 177:9 tell 29:8 34:13 48:15 54:12 59:25 98:20 156:2,24 telling 109:21 185:21 ten 10:18,22 11:10 12:4 13:25 14:3 tenanted 150:15 term 28:3,8,24 136:7 141:5 152:14 154:5 terms 13:2 23:21 25:17 26:15 27:11 61:7 64:12 80:25 81:10 86:11 91:4,13 118:8 118:21 122:11 125:25 163:17 171:12 174:17 175:18 178:12,18 178:18 180:4,25 terrorism 13:9 32:24 66:6 78:19 83:9 86:24 88:9	testified 3:5 9:5,7,11,16,18 10:4 28:18 34:9 38:12 54:21 testify 47:13,18,20 204:5 testifying 110:16 155:3,4 194:16 198:13 testimony 3:19 7:21 9:19 10:6 26:22 30:25 34:19 95:15 128:16 141:3 189:15 194:5 204:6 204:10 206:13 text 35:8 74:23 164:3 165:11 197:13 198:15,16 thank 4:5,16 5:19 17:21 74:14 154:25 170:21 182:17 202:4 203:2 Thanks 195:3 theme 14:11 theoretical 172:15 thin 131:13 thing 27:22 52:10 58:7 64:5 76:15 79:8 87:17 90:25 154:12 174:15 things 63:2 71:12 101:2,12 106:6 112:21 113:17,18 149:10 189:10 194:9 think 22:14 40:20 41:4 51:10 53:8,9 57:9 57:15,18 58:22
---	---	---	--

72:25 137:23 139:5 139:12,15 146:9 155:12,16 158:9 160:4,6,21 161:5,9 162:8 180:7 186:25 198:9 202:5,11 third 82:24 95:3 100:14 109:10 116:4 192:20 thorough 165:2 thought 140:19 three 8:13 13:19,19 147:13 195:17 200:18 time 1:13 4:9,13,16,19 19:9,9,10,21 20:17 21:24 23:4 26:18 29:22 31:18 32:5 56:25 57:4,9 74:6 74:12 79:5 130:3 144:20 156:12 161:5 168:20,24 171:9,11 188:16 189:11 193:12 197:25 201:13 202:2 204:10 times 22:3 49:6 title 25:15 26:5 75:5 91:9 101:18 102:8,20,24 103:17 104:10,19 104:24 105:2 107:10,19 108:4,10 108:16 109:2,9,24 112:23 113:8 124:24 titled 128:11 titles 109:12 today	3:18 5:16 7:10,23 9:17,21 49:17 62:24 94:8 95:15 119:15 121:8 122:16 170:11 today's 6:6,14,22 7:15 8:4 15:22 123:7 145:5 token 52:12,13,22 53:15 54:8,14 58:2 59:3 60:10 tokens 35:4 51:13,15 60:18 61:6 151:3 told 130:25 133:14,16 135:10 136:19 137:16 138:2 139:24 141:13 142:25 181:14 Tom 2:15 3:15,25 6:16 17:6 38:16 40:16 47:9 56:16 68:16 107:14 110:15 112:15 127:8,17 128:6,10 129:24 131:9,16,18 134:23 135:3 138:6 144:12 146:17 159:22 160:22 162:7 193:7 tomorrow 197:21 ton 179:15 189:17 190:11,17 tons 179:5 180:20 181:9 182:20 187:23 191:16 top 11:11 12:10 103:24 104:3 151:11 153:5 177:23 178:21 180:9	total 171:11,11 176:20 touching 45:4 tower 150:21 trading 75:8 93:23 123:18 137:3 150:16 174:20 178:23 180:12,12 187:11 traditional 7:8 train 178:16 trainer 178:14 transaction 75:6,12 83:16 88:3 93:5 117:10 166:23 transactional 167:6 174:19 transactions 129:9 136:25 Transcard 180:25 187:13 transcript 155:13 203:5 204:9,9 transferred 113:8 transport 188:10 transported 92:7 trial 9:6,9,12 21:9 tried 56:16 Trop 1:16 206:7,23 Troy 1:7 2:14,18 3:15 5:6 48:8 75:2 118:11 119:16 125:18,22 126:9 128:7,13,19 129:6,12 136:23	137:9 140:12 150:5 150:6,23,23 true 161:25 204:9 206:12 truth 204:5 try 46:6 57:17 110:21,25 111:3 112:7 121:2 155:10 162:10 193:8 trying 23:20 33:7 41:21 63:13 70:8 110:17 113:16 120:6 121:4 131:4,21 turn 8:24 18:11,13 19:3 61:12 74:17 107:3 132:10 147:5 155:17 163:24 169:6 turning 47:10 turns 51:2 two 8:12 12:10 22:24 80:8 84:2 95:23 112:21,25 113:17 113:18 148:4 151:6 151:10 153:4,7 168:8,10 183:13,22 186:19 192:6 194:9 type 11:25 104:2 155:11 typical 93:15 typically 92:5 <hr/> U <hr/> U.K 14:16,21,22 U.S 35:11,12,13,19,24
--	---	---	--

36:6,12,15 46:10 58:19 59:17 60:20 78:17 83:10,22 85:5 85:6,12 89:22 UA 175:14 178:10 UAE 79:9,17,25 82:18 84:8 85:7,8,12,17 87:17,20,24 88:10 UE 12:24 13:7,11 32:11 33:17 81:19 83:11 83:19,20,23 88:4 89:19 92:2,8 93:8 93:23 175:8 177:23 178:9,24 187:8 ultimate 44:17 ultimately 68:15 127:2 unclear 139:15 undergone 78:21 understand 7:13,18,19 11:17 23:5 48:18 55:12 56:10 64:16 71:5 85:4 86:15 88:18,23 94:3 97:13 101:10 108:8 126:18 133:24 134:19 137:19 139:11 143:5 150:6 151:15 165:16 181:12 understanding 6:12 20:4 21:25 22:5 22:11,20 23:6,11,15 26:17 27:25 28:6 29:24 69:9 88:13 124:14,23 205:18 understood 27:7 197:7,7 199:3 200:22 undertake	3:23 undisclosed 25:19 26:6 27:3,24 28:2,7,14,22 Unfortunately 156:12 unintelligible 46:16 UNITED 1:2 universe 165:18,22 167:5 unresponsive 126:24 untrue 154:15 155:9 upper 145:6 use 136:6 145:7 uses 97:9 <hr/> V <hr/> valid 43:6 validate 26:12 30:3 43:6 46:12,16 51:20,22 81:8 94:22 121:12 142:12 175:16 192:10 validated 63:24 78:2 185:2 validating 62:13 73:12 91:7 100:23 122:23 186:10 validation 92:22 94:21 103:18 106:16 156:15 159:5 187:13 192:25 197:2 validations 79:3 value	81:7,7 184:11,12 VARA 32:17 various 77:14 78:14 83:4 86:20 88:25 89:17 99:12 136:15 143:24 148:3 vault 91:23 92:17 179:8,23 179:24 181:3,8 182:22 184:2 vaulted 61:19 191:14 vaulting 91:17,19 123:18 182:5,20 183:23 186:7,18 vaults 180:2,11,12 188:15 verbally 5:25 verification 54:6 71:22 77:2 91:2 91:3,10 94:25 100:6 113:22 115:18 143:9 155:22 156:4 156:6,14,19,20,23 157:13,21 158:5,16 159:6 161:15,22 162:4,14 163:4,8 173:8 174:10 177:9 177:17,20 178:12 188:9,18 192:19,25 196:25 verified 61:16 62:2 verify 81:4 95:25 97:25 116:3 129:8 136:25 137:7 191:19 192:9 verifying 173:14 176:7 Veritas 147:12 152:12 156:7 156:12,17 158:25	159:14 163:6,15,23 173:7,21 189:22 192:21 193:24 194:2,5,7,23 196:2 196:20 197:15 198:20 199:12,21 200:16 version 18:3,7,9 vests 101:20 102:10,24 104:25 107:11 109:13 Victoria 150:19 151:19 videoconference 1:16 133:15,17,23 135:11,13 138:3 139:25 140:11 141:14,21 143:2 view 19:22,23 20:14,21,23 20:25 21:12 28:12 28:21,24 29:7 38:21 39:6 141:17 153:13 154:3 viewed 58:24 Villa 3:12 Virtual 32:16 visionary 150:24 volume 180:17 volunteer 127:4 <hr/> W <hr/> W 1:8 2:20 wait 133:7 183:12,12 190:5,5,6,6 198:4 want
--	---	--	--

4:3 9:3 17:19 28:25 35:8 40:24 46:3 47:13,16,19 48:14 55:8,10 69:8 82:9 88:18 90:7 97:23 100:8 106:10 107:8 111:2 122:8 129:3 132:6 137:23 140:21 143:9 145:13 155:5,10 169:2 171:3 172:5 172:10,25 191:4,8 194:17 200:25 wanted 4:2,7,24 47:17 94:22 135:25 138:8 140:2 145:23 146:9,11 147:14 157:5 163:10 171:6 wants 59:5 172:14 wasn't 48:20 116:16,23 way 20:14 41:23 49:11 60:4 89:8 106:18 110:20 126:19 135:19 148:14 162:8 180:16 188:8 206:16 ways 138:7 we'll 16:13 27:20 41:3 57:11 95:7 98:7 134:20 143:11 we're 8:2 9:21 56:24 64:4 71:7 73:24 82:3 148:22 155:8 198:19 202:9 we've 53:8 57:18 136:5 142:15 153:2 168:6 178:13 179:19 wealth	66:10 83:15 91:14 websites 176:13 weigh 100:8 weighing 199:9 weight 61:17 81:6 92:10 welcome 145:21 169:24 went 15:12 73:17 128:12 129:19 156:9 weren't 172:8 187:23 WHEREOF 206:18 whichever 180:16 white 11:23 14:19,22 49:9 148:7 widely 75:16 Wikipedia 176:12 willing 171:25 172:18 wish 51:4 129:22 witness 3:3 6:18 19:16 28:16 38:11 42:9 43:17 44:23 57:9 58:23 74:7,9 110:16 127:17,20 128:5 134:24 144:14 159:19,21 162:9 199:9 200:3 201:2,9 203:2,10 206:10,13 206:18 words 9:9 75:20 153:15 154:3 work	29:5 30:3 32:21,24 36:14 37:10,13 39:4 39:20,22 40:6 41:20 41:25 42:3,24 45:7 49:3 50:19,21,25 51:3 53:6,19,21 55:22 56:4 60:24 64:7 70:20 73:11 99:2 104:15,21 117:12,16 121:12 121:25 122:7,10,12 122:14 124:10 125:16 137:12,13 166:22 171:16 187:10 192:7 199:20 worked 32:2 working 9:23 32:21 33:15 34:7 66:14 187:6 works 126:19 world 189:10 worth 61:18 169:17 193:6 wouldn't 46:17 54:9,9 55:10 73:11 114:2 166:2 191:11 Wow 179:2 write 31:25 34:23 82:2 134:7 writing 46:24 47:22 48:24 49:19 50:8 51:8,24 written 3:19 11:3,5,8,10,20 11:22,24,25 12:8,12 13:2,9 14:2,10,15 115:23 124:8 125:13 145:17 161:17	wrote 14:18 15:12 31:13 62:23 147:11 www.MagnaLS.com 1:24 <hr/> X <hr/> X 1:3,10 193:7 205:2,6 <hr/> Y <hr/> yeah 125:16 133:11 year 175:10 years 9:6,8,13 10:19,22 11:2,10 12:4 13:12 13:25 14:3 150:18 174:2 yesterday 76:2 York 1:17 2:15,15 3:4 74:12 206:4,8 <hr/> Z <hr/> 0 <hr/> 002 125:17 003 125:18 <hr/> 1 <hr/> 1 3:12 8:3,7 61:12,13 74:21 80:15 82:12 83:25 106:11 112:20 113:4 132:12 183:22 184:13,21 190:22 192:4 205:13 1,000 171:16 1:00
---	--	---	--

1:13 197:22	149:18	205:16	184:19
10	1A	23rd	
46:11 75:5 76:8	101:5	147:10	5
77:13 78:16 124:24		24	5
193:6	2	174:2	8:5 124:15 145:5
10/26/2018	2	25-page	149:15 205:18
193:24	15:22 16:3 17:16,21	8:11	5:30
100	19:18 82:13 83:19	25KG	170:20
178:21 180:10,15	84:7 94:15 95:23	179:19	50
10004	103:8,9,11 112:22	26	180:15
2:15	113:4 145:8 155:20	2:14 15:24 16:2	51
11	182:22 192:5	128:12 137:18	18:14
77:13	205:14	195:12 205:14	51.1
12	20	28	18:16
1:12 187:8	204:19	144:2	54003
121	200	2C	128:11
2:10	180:10	113:6	56
124	2009	3	19:3
205:18	14:7,10	3	56.1
12th	2010	3	19:4
206:19	14:16,17	84:9 98:7,11 103:14	5th
13	2011	104:2 145:7 205:5	149:25
148:2,11	14:7,14	205:15	6
1314	2012	3:00	6
2:10	78:20	74:12	199:11
14	2018	30	6:15
48:9	12:25 15:24 16:2	196:24	203:9
15	32:9 48:9 80:3,7	3000	60
132:10,13 139:4	100:15 103:14,20	177:6	26:9
141:11 144:11	104:7 109:6 128:12	33131	7
147:6,8	137:18 147:10,20	2:6	61:12 80:12,12,14
1500	149:18,25 186:22	33301	95:22 162:25
182:18	205:14	2:11	164:25 197:14
16	2019	395	7/5/2018
155:18 157:22	197:14 198:20	179:5,15 180:19	149:24
158:17 200:11,17	199:11 200:17	181:8 182:20	75
205:14	2021	191:16	171:12 176:18
171	31:10 32:7	395,000-kilo	8
205:5	2024	179:16,22 180:8,22	8
18	8:5	181:4	78:9,13 86:21 87:2
163:25	2025	4	103:20 104:7 109:5
19	1:12 206:19	4	198:20 205:13
32:9	22-cv-2317-DAMI...	4	
1950	1:6	25:23 74:18,20,21	
2:5	23	123:6,10 205:16	
1988	147:20 195:16 196:2	48	

<div>801 2:5 866-624-6221 1:23 87,000 180:20</div> <div><div>9</div></div> <div>9 3:12 185:14 98 205:15</div>			
---	--	--	--